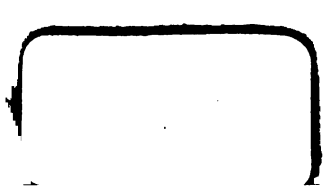
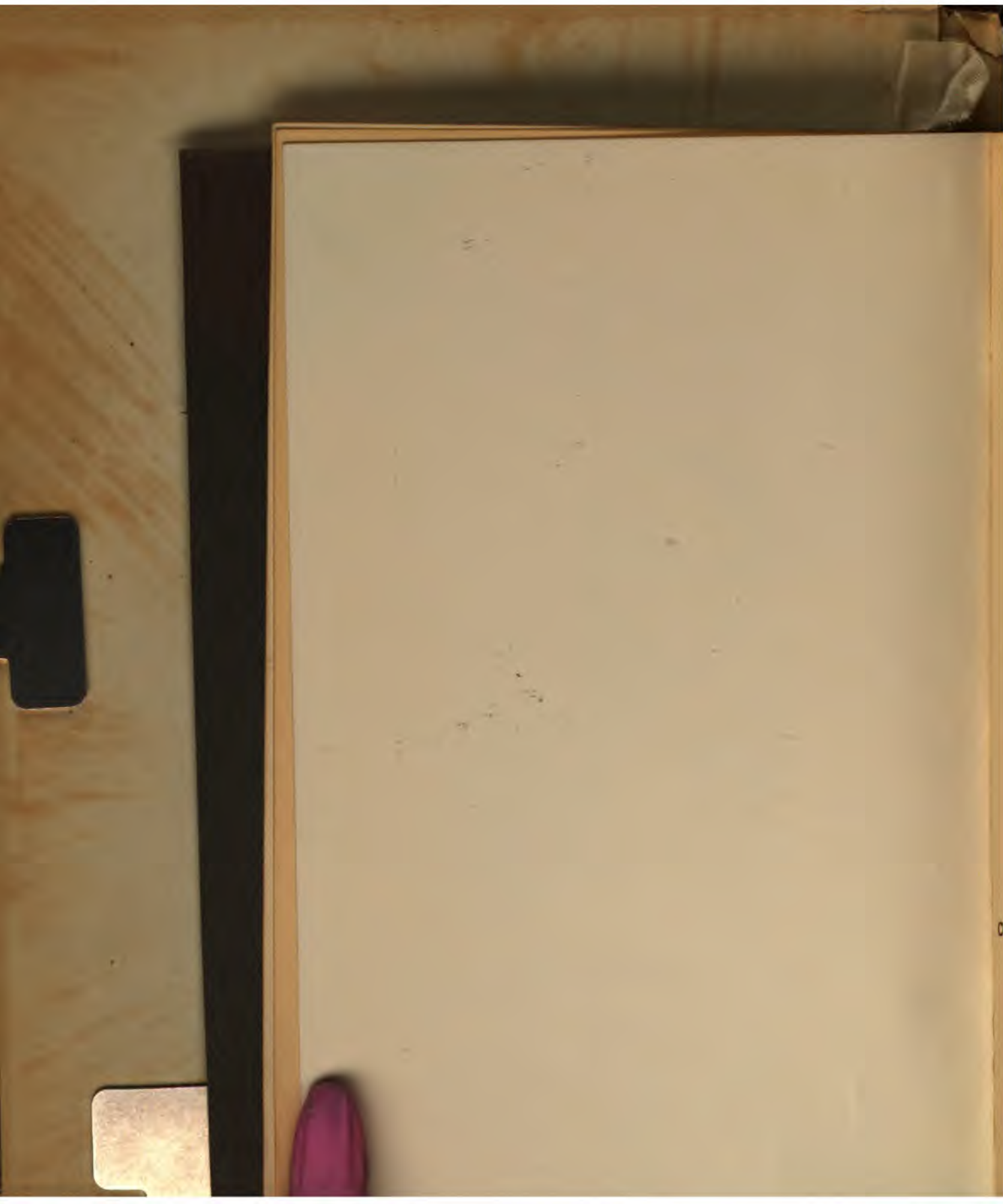


THE MICHIGAN STATE BAR ASSOCIATION

ADOLPH SLOMAN,
PRESIDENT 1902-'03.



PROCEEDINGS OF

THE FOURTEENTH ANNUAL MEETING

....OF....

THE MICHIGAN STATE BAR ASSOCIATION

DETROIT
MICHIGAN

JUNE 18th and 19th, 1903

....WITH....

CONSTITUTION, BY-LAWS, OFFICERS, MEMBERS, ETC

1903

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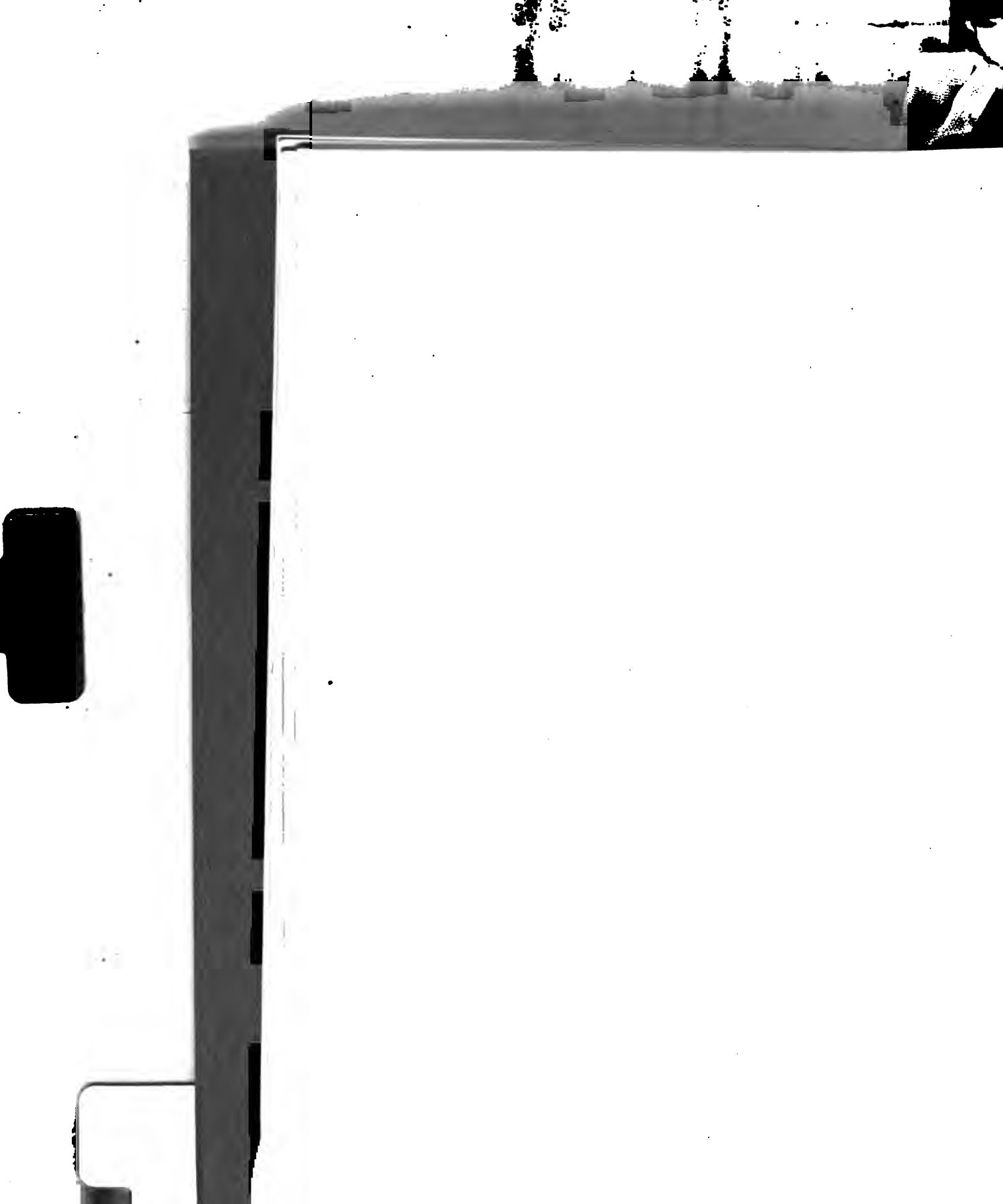


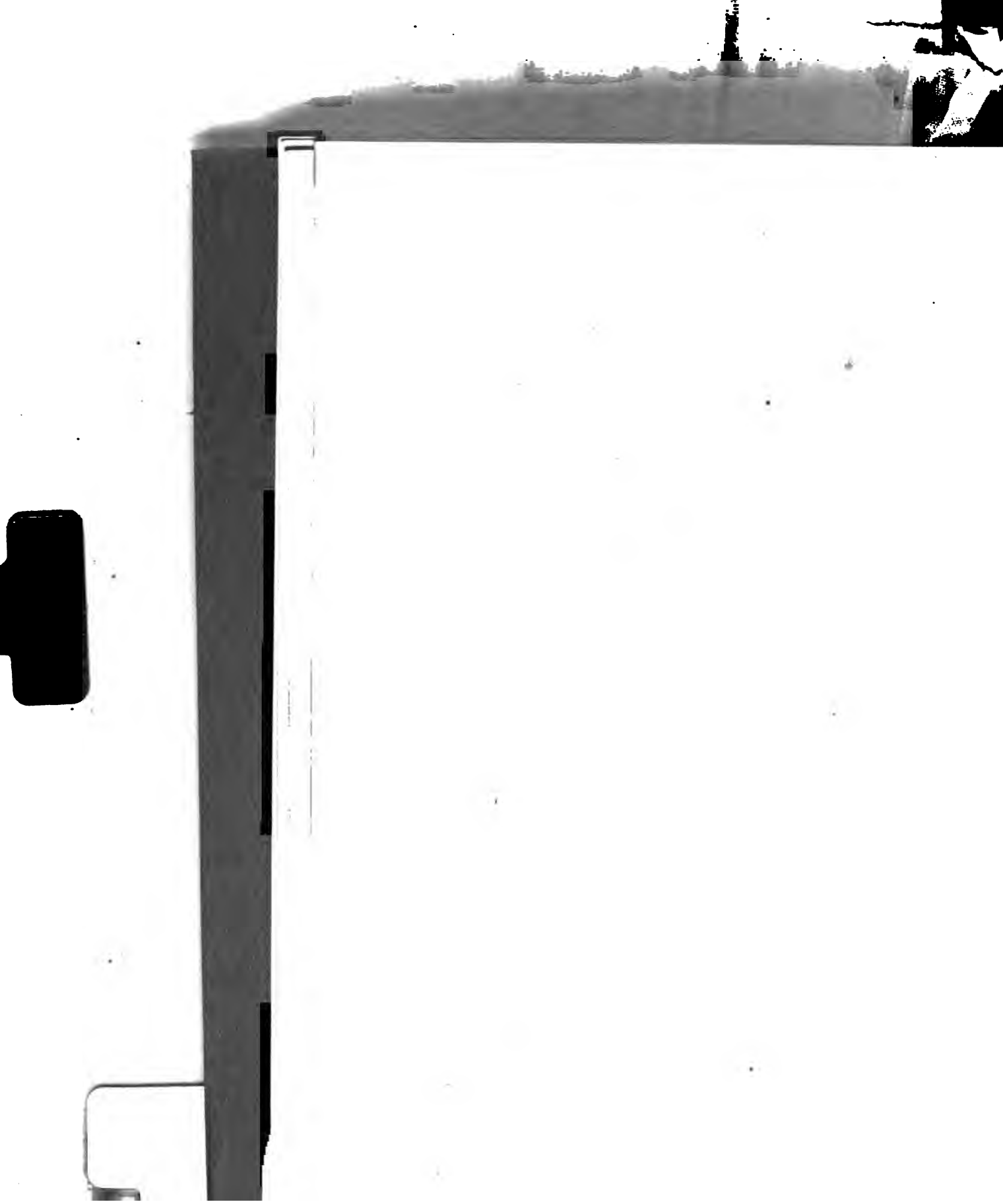
OFFICERS

MEMBERS

COMMITTEES

CONSTITUTION, BY-LAWS

MICHIGAN BAR ASSOCIATIONS, ETC



OFFICERS FOR 1903-4.

PRESIDENT—RUSSELL C. OSTRANDER, LANSING.
VICE-PRESIDENT—CHESTER L. COLLINS, BAY CITY.
TREASURER—ARTHUR C. DENISON, GRAND RAPIDS.
SECRETARY—WM. J. LANDMAN, GRAND RAPIDS.

BOARD OF DIRECTORS:

FIRST CONGRESSIONAL DISTRICT.....ADOLPH SLOMAN, DETDOIT
SECOND CONGRESSIONAL DISTRICT.....CLEMENT E. WEAVER, ADRIAN
THIRD CONGRESSIONAL DISTRICT.....GUY M. CHESTER, HILLSDALE
FOURTH CONGRESSIONAL DISTRICT.....R. R. PEALER, THREE RIVERS
FIFTH CONGRESSIONAL DISTRICT.....F. D. M. DAVIS, IONIA
SIXTH CONGRESSIONAL DISTRICT.....E. S. LEE, FLINT
SEVENTH CONGRESSIONAL DISTRICT.....DWIGHT N. LOWELL, ROMEO
EIGHTH CONGRESSIONAL DISTRICT.....GEO. W. DAVIS, SAGINAW
NINTH CONGRESSIONAL DISTRICT.....WILLIAM CARPENTER, MUSKEGON
TENTH CONGRESSIONAL DISTRICT.....FRANK S. PRATT, BAY CITY
ELEVENTH CONGRESSIONAL DISTRICT...CHAS. T. RUSSELL, MT. PLEASANT
TWELFTH CONGRESSIONAL DISTRICT.....B. J. BROWN, MENOMINEE

COMMITTEES FOR 1903-4.

LEGISLATION AND LAW REFORM.

John C. Patterson, Chairman.....Marshall
Samuel L. Kilbourne.....Lansing
William L. January.....Detroit
Levi L. Barbour.....Detroit
Dan H. Ball.....Marquette

SPECIAL COMMITTEE TO DRAFT REVISION OF ARTICLE VI. OF STATE CONSTITUTION.

Edward Cahill, Chairman.....Lansing
Willard F. Keeney.....Grand Rapids
Thomas A. Wilson.....Jackson
Michael Brennan .....Detroit
L. T. Durand.....Saginaw
F. A. Nims.....Muskegon
John J. Carton.....Flint

MEMORIAL.

Phillip T. Van Zile, Chairman.....Detroit
William G. Howard.....Kalamazoo
William M. Kilpatrick.....Owosso
Charles E. Townsend.....Jackson
J. M. C. Smith.....Charlotte

MEMBERSHIP.

W. W. Hyde, Chairman.....Grand Rapids
Wm. J. Landman.....Grand Rapids
Dallas Boudeman.....Kalamazoo

EXECUTIVE.

Charles W. Nichols, Chairman...Lansing
Charles W. Foster.....Lansing
Cyrenius P. Black.....Lansing

GRIEVANCES.

C. W. Perry, Chairman.....Clare
Thomas E. Barkworth.....Jackson
Byron R. Erskine.....Mt. Clemens
Mark Norris.....Grand Rapids
Michael Brown.....Big Rapids

LEGAL EDUCATION AND ADMISSION TO BAR.

Frank E. Robson, Chairman.....Detroit
Horace M. Oren.....Sault Ste. Marie
William B. Williams.....Lapeer
Cyrus A. Hovey.....Port Huron
A. B. Morse.....Ionia

DELEGATES TO AMERICAN BAR ASSOCIATION, 1903.

Adolph Sloman, Chairman.....Detroit
Charles M. Wilson.....Grand Rapids
Wm. L. January.....Detroit

MEMBER OF GENERAL COUNCIL, AMERICAN BAR ASSOCIATION.

Wm. L. January.....Detroit

VICE-PRESIDENT, LOCAL COUNCIL, AMERICAN BAR ASSOCIATION.

Charles M. Wilson.....Grand Rapids

LOCAL BAR ASSOCIATIONS.

	President.	Secretary.
Bay County Bar Association	Edgar A. Cooley, Bay City.	Frank S. Pratt, Bay City.
Detroit Bar Association	Jas. H. Pound, Detroit.	Geo. B. Yerkes, Detroit.
Grand Rapids Bar Association	Roger W. Butterfield, Grand Rapids.	Hugh E. Wilson, Grand Rapids.
Houghton County Bar Association	Thos. L. Chadbourne, Houghton.	Gordon R. Campbell, Calumet.
Ingham County Bar Association	Samuel L. Kilbourne, Lansing.	Harry A. Silsbee, Lansing.
Ionia County Bar Association	Allen B. Morse, Ionia.	Wm. K. Clute, Ionia.
Jackson County Bar Association	Eugene Pringle, Jackson.	Benjamin Williams, Jackson.
Lenawee County Bar Association	Clement E. Weaver, Adrian.	Walter S. Westerman, Adrian.
Marquette County Bar Association	John W. Stone, Marquette.	W. A. Ross, Marquette.
Muskegon County Bar Association	Hiram J. Hoyt, (1901) Muskegon.	Jas. C. McLaughlin, (1901) Muskegon.
Saginaw County Bar Association	Miles J. Purcell, Saginaw.	Frank Q. Quinn, Saginaw.
Washtenaw County Bar Association	A. J. Sawyer, Ann Arbor.	John W. Bennett, Ann Arbor.

CONSTITUTION AND BY LAWS.

CONSTITUTION.

ARTICLE I.

NAME.

The name of this Association shall be: "THE MICHIGAN STATE BAR ASSOCIATION."

ARTICLE II.

OBJECTS.

The objects of this Association shall be: To maintain the honor and dignity of the profession of the law; to increase its usefulness in promoting the due administration of justice; and to cultivate social intercourse among its members.

ARTICLE III.

MEMBERSHIP.

Section 1. Members of the bar of Michigan in good standing and authorized to practice in the courts of Michigan and Judges of the United States Circuit and District Courts of Michigan, may become members of this association.

Section 2. Each application for admission to membership must be endorsed by a member of the Association and sent to the Secretary. The Secretary shall submit applications to the Committee on Membership, which shall have full power to admit to membership.

Section 3. The annual dues shall be $1.00, payable to the Treasurer on the first day of January of each year. Members in arrears shall be expelled from the Association by a majority vote of the Board of Directors. Upon satisfactory explanation of default in payment of dues, the Board of Directors may reinstate any member. (As amended June 19th, 1903.)

ARTICLE IV.

OFFICERS AND THEIR DUTIES.

Section 1. (As amended June 6, 1894, as follows): The officers of the Association shall be a President, Vice-President, Secretary, Treasurer and Board of Directors of fifteen members.

Section 2. The President shall act as Chairman of the Board of Directors, prepare an annual address, audit all bills and perform the duties usually incident to the office of President. In the event of his inability to perform the duties of the office, they shall devolve upon the Vice-President.

Section 3. The Secretary shall act as Secretary of the Board of Directors, shall prepare an annual report and perform the duties usually incident to the office of Secretary. The Secretary shall keep a full and complete record of the proceedings of the annual convention, and shall from time to time arrange same in such order that they may be bound and preserved. (As amended June 19th, 1903.)

Section 4. The Treasurer shall prepare an annual report, and shall perform the duties usually incident to the office of Treasurer. His accounts shall be audited by a committee appointed by the President. The Treasurer shall also be required to furnish a bond in such amount as the Board of Directors may direct. (As amended June 19th, 1903.

Section 5. (As amended June 6, 1894, as follows): The Board of Directors shall consist of the President, Vice-President, Secretary and twelve other members elected by the Association, one from each congressional district of the State. It shall prepare the program for the annual meeting. It shall have the entire management of the affairs of the Association subject to the Constitution and By-Laws.

ARTICLE V.

The Association shall at each convention determine the place of meeting for the next year. In event of its failure to do so, such place of meeting shall be determined by the Board of Directors. (As amended June 19th, 1903.)

ARTICLE VI.

AMENDMENT.

This Constitution may be amended by a three-fourths (¾) vote of the members present at any annual meeting.

BY-LAWS.

I.

STANDING COMMITTEES.

(As Amended May 29, 1901.)

There shall be four Standing Committees of the Association:

2. Executive, Legislation and Law Reform.
3. Legal Education and Admission to the Bar;
4. Grievances.
5. Membership.

The first committee shall consist of three members, to be appointed from the place where the annual meeting of the Association is to be held and each of the remaining three committees (Legislation and Law Reform, Legal Education and Admission to the Bar, Grievances) shall consist of five members, and shall be appointed by the President.

1. Executive Committee. It shall be the duty of this Committee in conjunction

with the President to have the general charge of the affairs of the Association. They shall meet from time to time as it may be deemed necessary by the Chairman, to determine upon the policy of the Association; the programme for its annual convention; the arrangements for said convention, and to prepare and submit at the meetings of the Association, resolutions and suggestions relative to the general welfare of the Association. This Committee shall have such general powers and duties as is now possessed by the Board of Directors, but shall be entitled to assume the duties of the Board of Directors only when such Board has failed to meet and take any action. (As amended June 19th, 1903.)

2. Committee on Legislation and Law Reform. It shall be the duty of the Committee on Legislation and Law Reform:

(a) To procure, after the time has expired for the introduction of bills at each session of the legislature, copies of all bills introduced which affect in any way the law or its practice in the State; and to ascertain and judge of the need or propriety of such proposed legislation. It shall take such steps as it shall deem necessary and proper to postpone the enactment or accomplish the defeat of any of such measures as they may consider unwise or injurious.

(b) To ascertain and report to the Association such legislation as it may consider necessary to carry into effect the suggestions contained in the reports of committees and papers read at any meeting, and to prepare and present such legislation to the Association in the form of bills or joint resolutions appended to its report. It shall present to the Governor and legislature, in the form of a memorial, such measures as are endorsed and recommended by the Association, and in the name of the Association, shall take such steps as may be proper to ensure the enactment of such bills and joint resolutions.

(c) To observe the working of the judicial system of the State, collect information, examine projects for changes or reforms in the system, and recommend to the Association such action as it may deem expedient.

(d) To cause information to be given, between September 1 and November 1 of each year, through the public press or otherwise, that it at all times invites suggestions, formulated in writing, as to changes in the law relating to the administration of justice, which suggestions shall be mailed and addressed to the Secretary of the Association and endorsed "For the Committee on Legislation and Law Reform."

3. Committee on Legal Education and Admission to the Bar. It shall be the duty of the Committee on Legal Education and Admsision to the Bar to take into consideration the subject of legal education and other requisites for admission to the bar, and to recommend to the Association such changes as it may deem necessary to propose in the laws, system and mode of legal education and of admission to the practice of the law in the State.

4. Committee on Grievances. It shall be the duty of the committee to receive and investigate all charges of misconduct justifying suspension, or disbarment, which may be made to it by responsible parties against any attorney of the State. If, upon investigation, probable cause to believe the charges to be true is found to exist, the committee shall cause proceedings to be taken to procure the disbarment of such attorney. The committee shall also investigate such other grievances affecting the profession of the law as may be brought to its attention, and recommend to this Association a remedy therefor.

(5. At the meeting held in Grand Rapids, August 12th, 1902, Mr. Sloman moved that "instead of three standing committees there shall be four, the fourth to be known as the Committee on Membership, consisting of three members, to be appointed by the President, whose duty it shall be to pass upon applications and who shall have power to admit.")

II.

ORDER OF BUSINESS.

The order of business at the annual meetings shall be as follows:

(a) Reading of Minutes of Preceding Meeting.
(b) Address of the President.
(c) Report of the Secretary.
(d) Report of the Treasurer.
(e) Report of the Board of Directors.
(f) Report of the Committee on Legislation and Law Reform.
(g) Report of the Committee on Legal Education and Admission to the Bar.
(h) Reports of Special Committees.
(i) Election of Officers.
(j) Miscellaneous Business.

III.

(The By-Laws were amended by striking out By-Law III., which designated the Michigan Law Journal as the official organ of the Association. The Detroit Legal News is now the official organ of the Association.)

All addresses and papers read at the annual meetings shall be lodged with the Secretary.

IV.

AMENDMENT.

These By-Laws may be amended by a majority vote of the members present at any meeting.

V.

(Added May 29, 1901.)

The officers and committees of this Association shall be entitled to have paid, from the funds of the Association, their actual expenses incurred in the performance of their respective duties.

Abbott, Fred H.....Crystal Falls
Abbott, Chas. S., 823 Majestic Bldg. .....Detroit
Abbott, Merrie H.....
Adams, E. J., Widdicomb Bldg., Grand Rapids
Aitken, D. D.....Flint
Albertson, U. S.....Cadillac
Aldrich, Fred H., 814 Hammond Bldg. .....Detroit
Alexander, Cassius.....Grand Ledge
Alexander, Chas. T.....Detroit
Alexander, W. B.....Adrian
Allor, Elmer L., 709 Union Trust Bldg. .....Detroit
Anderson, John W., 68 Moffat Bldg. ..... "
Andrews, Bishop E.....Three Rivers
Angell, Alexis C., Union Trust Bldg.....Detroit
Arthur, Jesse.....Battle Creek
Avery, Lincoln.....Port Huron
Backus, Ella M., Gov't Bldg., Grand Rapids
Bacon, Elbridge F., 708 Hammond Bldg.....Detroit
Badgely, Clyde.....Jackson
Baker, F. A., 30 Whitney Opera House Block.....Detroit
Baldwin, Clark L.....Adrian
Ball, Dan H.....Marquette
Barbour, Levi L., 29 Buhl Blk..Detroit
Barkworth, T. E.....Jackson
Barnett, J. F.....Grand Rapids
Barry, E. D., National City Bank Bldg..... " "
Bates, Geo. W., 32 Buhl Blk...Detroit
Bancker, Enoch .....Jackson
Bayne, James H., 52 Buhl Blk., Detroit
Beach, Emmet L.....Saginaw
Beach, Watson.....Lexington
Beaumont, John W., 60 Buhl Block .....Detroit
Beaver, Theo. G.....Niles
Beckwith, L. G.....Bay City
Belden, Wm. P.....Ishpeming
Bennett, A.....Adrian
Bennett John W.....Ann Arbor
Berger, E. T., 1330 Majestic Bldg. .....Detroit
Bierce, Herbert MacO., 32 Buhl Block ..... "
Bird, John E.....Adrian
Bissell, John H., 80 Griswold St. Detroit
Black, John L.....Port Huron
Blair, C. A.....Jackson
Boltwood, Lucius, Michigan Trust Co. Bldg.....Grand Rapids
Bope, Wm. T.....Bad Axe
Boudeman, Dallas.....Kalamazoo
Bowen, Herbert, 80 Moffat Bldg., Detroit
Bowers, Varnum J.....Mt. Clemens
Bowman, E. J.....Greenville
Boynton, Herbert E., 700 Union Trust Bldg.....Detroit
Bradfield, Thos. P., Michigan Trust Co. Bldg.....Grand Rapids
Bradgon, A. B.....Monroe
Brennan, Michael, 65 Moffat Bldg. .....Detroit
Brewster, James H.....Ann Arbor
Brigham, John.....West Bay City
Brockway, James E.....Bay City
Brooks, John M., 220 Genesee Avenue .....Saginaw
Brown, Arthur.....Ann Arbor
Brown, B. J.....Menominee
Brown, Geo.....Flint
Brown, Henry B....Washington, D. C.
Brown, J. Earle.....St. Johns
Brown, L. A.....Adrian
Brown, Michael.....Big Rapids
Brown, N. J., Widdicomb Bldg. .....Grand Rapids
Brown, W. E.....Lapeer
Browne, Thos. W.....Kalamazoo
Buchanan, C. R., Michigan Trust Co. Bldg.....Grand Rapids
Bundy, McGeorge, Michigan Trust Co. Bldg..... " "
Bunker, R. E.....Ann Arbor
Burlingame, Edwin A...Grand Rapids
Burrett, W. A.....Hancock
Burroughs, S. W., 172 Griswold Street .....Detroit
Burton, C. F., 12 Hodges Bldg. "
Butler, J. Jefferson, 79 Home Bank Bldg..... "
Butterfield, O. E.....Ann Arbor
Butterfield, Roger W., Wonderly Bldg.....Grand Rapids
Butzel, Henry M., 511 Union Trust Bldg.....Detroit
Byers, I. W.....Iron River
Cady, Bert D.....Port Huron
Cahill, Edward.....Lansing
Campau, Daniel J., 21 Campau Bldg. .....Detroit
Campbell, Chas. H., 601 Union Trust Bldg..... "
Campbell, Gordon R.....Calumet
Campbell, Henry M., 604 Union Trust Bldg.....Detroit
Campbell, Jas. H., Michigan Trust Co. Bldg.....Grand Rapids
Canfield, F. H., 62 Moffat Bldg..Detroit
Carleton, Grace Haines..... "
Carpenter, Wm. L.....Lansing
Carpenter, Wm., Hackley Nat'l Bank Bldg.....Muskegon
Carroll, Thos. F., Houseman Bldg. .....Grand Rapids
Carton, John J.....Flint
Casgrain, Chas. W., 1019 Hammond Bldg.....Detroit
Cavanaugh, H. W.....Homer
Cavanaugh, M. J.....Ann Arbor
Cavanaugh, Thos. J.....Paw Paw
Chadbourne, T. L.....Houghton
Chaddock, John B.....Ionia
Chadwick, Anson E.....Port Huron
Chadwick, Wm. E.....Hillsdale
Chamberlain, F. C.....Detroit
Chamberlain, Robt. M., 46 Moffat Bldg. ..... "
Champion, Chas. W.....Coldwater
Chandler, A. R.....Corunna
Chandler, Chas., Ledyard Blk., Grand Rapids
Chapin, W. W., 1006 Hammond Bldg. .....Detroit

Chatterton, M. D.....Lansing
Cheever, Noah W.....Ann Arbor
Chester, Guy M.....Hillsdale
Chittenden, Clyde C.....Cadillac
Clapperton, Geo., Mich. Trust Co. Bldg.....Grand Rapids
Clark, E. S.....Bay City
Clark, F. O.....Marquette
Clark, Geo. W.....Bad Axe
Clark, Joseph H.....Detroit
Clark, O. S.....Battle Creek
Clark, Wm. R.....Grand Ledge
Clawson, L. E.....Battle Creek
Clink, S. K.....Muskegon
Clute, Wm. K.....Ionia
Cobb, Geo. P.....Bay City
Cobb, J. H.....Alpena
Cobb, W. S.....Jackson
Codd, Geo. P., 716 Hammond Bldg.Detroit
Cole, J. H..... "
Collingwood, Chas. B.....Lansing
Collins, C. L.....Bay City
Collins, L. H., 607 Hammond Bldg.Detroit
Collins W. A.....West Bay City
Conely, John D., 45 Newberry Bldg.....Detroit
Constantine, S. M.....Three Rivers
Cooley, E. A.....Bay City
Coolidge, Orville.....Niles
Corwin, B. M., Houseman Bldg., Grand Rapids
Couch, John A.....Sault Ste. Marie
Covert, Arthur H., 42 Detroit Opera House Blk.....Detroit
Cowles, Israel T., 311 Union Trust Bldg..... "
Crane, Albert, Mich. Trust Co. Bldg.....Grand Rapids
Crane, E. A.....Kalamazoo
Crane, Wm. E.....Saginaw, W. S.
Cresswell, Harry L., Court House.....Grand Rapids
Crocker, Martin.....Mt. Clemens
Culver, Adelbert.....Albion
Cummins, Geo. J.....Harrison
Cutcheon, B. M., 142 Seaton St., Washington, D. C.
Danaher, M. B.....Ludington
Davis, G. W.....Saginaw
Davis, H. C.....Traverse City
Davitt, James H.....Saginaw
Davock, H. P., 90 Moffat Bldg.....Detroit
Day, A. G.....Newaygo
Delano, Horace L.....Muskegon
Denby, Edwin, 76 Moffat Bldg....Detroit
Denfield, W. J.....Saginaw
Denison, A. C., Mich. Trust Co. Bldg.....Grand Rapids
Dennison, Edward J.....Marshall
Dickinson, Don M., Union Trust Bldg.....Detroit
Dickinson, J. G., 33 Newberry Bldg. "
Diekema, G. J.....Holland
Doan, Gersham P.....Mendon
Dodds, Francis H.....Mt. Pleasant
Dolan, L. P.....Lansing
Donahoe, C. F.....Munising
Donnelly, James.....Bay City
Donnelly, John C., 65 Moffat Bldg..Detroit
Dooling, John C.....St. Johns
Doran, Peter, Power Blk., Grand Rapids
Douglas, Samuel P., 80 Moffat Bldg.....Detroit
Drew, W. W.....Grand Rapids
Drury, Horton H., Ottawa Block..... " "
Duffield, Henry M., 612 Union Trust Bldg.....Detroit
Duffy, James E.....Bay City
Duffy, John I.....Ann Arbor
Durand, C. A.....Flint
Durand, Geo. H..... "
Durand, L. T.....Saginaw
Durfee, Edgar O.....Detroit
Durfee, Irving W., Newberry Bldg.....Detroit
Eaton, Marquis E.....Chicago, Ill.
Edwards, E. E.....Fremont
Eldredge, A. B.....Marquette
Ellis, A. A.....Ionia
Ellsworth, F. H.....Benton Harbor
Emerick, Frank E.....Saginaw
Emery, Alex.....Buchanan
Emmons, Harold H., 61 Moffat Bldg.....Detroit
Engelhard, Charles, 62 Home Bank Bldg..... "
Fancher, I. A.....Mt. Pleasant
Farr, Geo. A.....Grand Haven
Ferguson, W. W., 627 Chamber of Commerce.....Detroit
Field, Geo. S., 30 Buhl Blk..... "
Finnegan, J. T.....Hancock
Finney, J. W., 42 Peninsular Bank Bldg.....Detroit
FitzGerald, Gerald, Michigan Trust Co. Bldg.....Grand Rapids
FitzGerald, J. C., National City Bank Bldg..... " "
Fitzpatrick, W. G., 15 Whitney Opera House Bldg.....Detroit
Flannigan, R. C.....Norway
Flowers, Charles, 802 Hammond Bldg.....Detroit
Flynn, James H., 812 Union Trust Bldg..... "
Flynn, S. P.....Bay City
Forler, Henry C. L., 58 Buhl Blk..Detroit
Foster, Chas. W.....Lansing
Fowler, George B., 715 Hammond Bldg.....Detroit
Fox, Geo. R., Shearer Bldg...Bay City
Fox, Wm. D.....Detroit
Franklin, Wm. R.....Clio
Fraser, Elisha A., 16 McGraw BldgDetroit
Frazer, R. E., Wayne Circuit Ct. "
Freeman, A. F.....Manchester
Freeman, F. M..... "
Freeman, Henry B.....Munising
Friedman, Wm., 504 Hammond Bldg.....Detroit
Fuller, C. C.....Big Rapids
Fuller, Wm. D.....Grand Rapids
Fyfe, L. C.....St. Joseph
Gaffney, F. O.....Lake City
Gallup, Geo.....Escanaba
Gardner, Chas. W.....Evart
Gardner, Henry M.....Lansing
Gardner, L. B..... "
Gates, Jasper C., 16 McGraw Bldg..Detroit
Geer, Harrison, 18 Buhl Blk..... "
Gillett, H. M.....Bay City

Gleason, Chark H., Powers Opera House Blk.....Grand Rapids
Gleason, John M.....Port Huron
Goff, John H., 610 Wayne Co. Sav. Bank Bldg.....Detroit
Golden, C. A.....Monroe
Gordon, Wm. D.....Midland
Graham, Robt. D.....Grand Rapids
Grant, C. B.....Lansing
Grant, Geo.....Saginaw
Grant, J. H.....Manistee
Graves, Frank P.....Benton Harbor
Gray, Albert R.....Houghton
Gray, Robt. T., 39 Moffat Bldg....Detroit
Gray, Wm. J., 39 Moffat Bldg..... "
Green, Fred W.....Ypsilanti
Greening, Geo. B., 11, No. 72 Griswold St.....Detroit
Griffin, Levi T.....Scranton, Pa.
Griswold, N. O.....Greenville
Groesbeck, A. J., 1305 Majestic Bldg., Detroit
Grove, Wm. E., Houseman Bldg. .....Grand Rapids
Guise, Frank P., 46 Moffat Bldg..Detroit
Haggarty, Wm. H., Police Court .....Grand Rapids
Haire, Norman W.....Ironwood
Hall, Chas. L.....Harbor Beach
Hall, DeVere.....Bay City
Hambitzer, J. F.....Houghton
Hammond, Chas. F.....Lansing
Hammond, J. T.....Jackson
Hanson, J. D. S.....Hart
Hanson, Winfield S..... "
Harris, W. C., 79 Moffat Bldg.....Detroit
Hartwig, L. M.....Hart
Hatch, Reuben, Widdicomb Bldg .....Grand Rapids
Hatch, W. B., 72 Home Bank Bldg.Detroit
Hawley, R. A.....Ionia
Heald, Henry T., 109 Ottawa Street .....Grand Rapids
Heckert, Benj. F.....Paw Paw
Hefferan, Geo. D., Michigan Trust Co. Bldg..... Grand Rapids
Heineman, D. E., 28 Moffat Bldg..Detroit
Helfman, Harry, 61 Moffat Bldg.. "
Hendee, J. B.....Eaton Rapids
Hendrick, Hartley E.....Middleville
Hennigan, J. F.....Jackson
Herbst, H. H..... .....Ann Arbor
Hewitt, Adolphus E.....Jackson
Hewitt, John C.....Bay City
Hitchcock, Chas. W..... " "
Hoffman, Henry.....St. Ignace
Holcomb, John W.....Grand Rapids
Holden, Lawson C.....Sault Ste. Marie
Holmes, Glenn W.....Grand Rapids
Hooker, Frank A.....Lansing
Hooper, Jos. L.....Battle Creek
Hopkins, Chas. C.....Lansing
Hopkins, Joel C.....Battle Creek
Hosmer, Geo. S., 70 Buhl Blk.....Detroit
Howard, Harry C.....Kalamazoo
Howard, W. G..... "
Hoyt, Hobart B.....Detroit
Hoyt, H. J.....Muskegon
Hoyt, Wm. E..... "
Huggett, Martin C., Wm. Alden Smith Bldg.....Grand Rapids
Hulbert, S. S.....Battle Creek
Humphrey, Leonard T.....Coldwater
Humphrey, Watts S.....Saginaw
Hutchins, Harry B.....Ann Arbor
Hyde, Wesley W., Michigan Trust Co. Bldg.....Grand Rapids
Irish, E. M.....Kalamazoo
Jocokes, James A.....Pontiac
January, W. L., 4 Buhl Blk.....Detroit
Jenkins, Frank E.....Oxford
Jenks, W. L.....Port Huron
Jenney, Wm. S.....Mt. Clemens
Jerome, Jas. D., 70 Moffat Bldg....Detroit
Jewell, Harry D., Probate Court .....Grand Rapids
Jewett, Henry R., 1 Wheeler Blk..Adrian
Johnston, Andrew W., Houseman Bldg.....Grand Rapids
Jones, Arthur .....Muskegon
Jones, Frank E.....Ann Arbor
Joslin, Theo. M.....Adrian
Joslyn, Lee E.....Bay City
Kelly, Ronald, 1011 Hammond Bldg. .....Detroit
Keeney, Willard F., Wonderly Bldg.....Grand Rapids
Ketcham, Clyde W.....Dowagiac
Kies, Fred A.....Jackson
Kilbourne, S. L.....Lansing
Kilpatrick, Wm.....Owosso
Kingsley, Willard, Houseman Bldg.....Grand Rapids
Kinnane, J. E.....Bay City
Kinne, E. D.....Ann Arbor
Kirkby, Elmer.....Jackson
Kissane, Thos, 507 Hammond Bldg.Detroit
Kleinhans, Jacob, Michigan Trust Co. Bldg.....Grand Rapids
Knappen, F. E.....Kalamazoo
Knappen, Loyal E., Michigan Trust Co. Bldg.....Grand Rapids
Knight, Willard A.....Battle Creek
Knight, Seth W.....Mt. Clemens
Knowles, R. D.....Jackson
Lacy, A. J.....Clare
Ladd, S. W.....Port Huron
Lane, Victor H.....Ann Arbor
Landman, Wm. J., Houseman Bldg.....Grand Rapids
Landon, Geo. M.....Monroe
Langley, Jas. P.1102 Majestic BldgDetroit
Larwill, Harry L.....Adrian
Latham, C. K., 57 Moffat Bldg.....Detroit
Lawrence, John S., Mich. Trust Co. Bldg.....Grand Rapids..
Lee, Ed. S.....Flint
Lemkie, Felix A.....Detroit
L'Esperance, D. A., 35 Newberry Bldg. ..... "
Lightner, Clarence A., 87 Moffat Bldg. ..... "
Lillibridge, W. M., 45 Moffat Bldg. "
Lockton, Andrew W.....Battle Creek
Lockwood, H. A.....Monroe
Long, E. H., Houseman Bldg. .....Grand Rapids
Lowell, Dwight N.....Romeo
Lucking, Alfred, 60 Moffat Bldg...Detroit
Luton, Geo.....Newaygo
Lynd, Andrew J.....Saginaw
Lyon, Edwin H.....St. John

McAllister, James T.....Grand Rapids
McCall, Lyman H.....Charlotte
McCurdy, John T.....Corunna
McDonald, Chas. S., 714 Hammond Bldg. .....Detroit
McDonald, Jas. H., 42 Moffat Bldg. "
McDonald, J. S., Houseman Bldg. .....Grand Rapids
McDonald, Michael F.....Saut Ste. Marie
McDonnell, A.....Bay City
McGrath, John W., 601 Wayne Co. Sav. Bank Bldg.....Detroit
McGregor, Malcolm, 66 Home Bank Bldg. ..... "
McIntyre, D. E .....Cadillac
McKay, John A.....Saginaw
McKnight, W. F., Wonderly Bldg. .....Grand Rapids
McNabb, Duane T.....Bad Axe
McNamara, Edward, 28 Moffat Bldg. .....Detroit
McNamara, Francis.....Mt. Pleasant
McPherson, Charles.....Detroit
MacDonald, R. J.....Muskegon
MacLean, Hector, 166 Field St.....Detroit
Mackay, John D..... "
Maher, E. A., Aldrich Bldg.Grand Rapids
Manchester, Wm. C.....Detroit
Mapes, Carl E, Ct. House..Grand Rapids
Marr, Chas. H.....Wyandotte
Marsh, E. J... .....Big Rapids
Maybury, Wm. C., 60 Moffat Bldg.Detroit
Maynard, F. A., Houseman Bldg. .....Grand Rapids
Maynard, Horace S .....Charlotte
Mechem, Floyd R.....Ann Arbor
Meddaugh, E. T., 17 Buhl Blk.....Detroit
Metzger, Henry F.....Sault Ste. Marie
Miller, A. E.....Marquette
Miller, Craig C.....Marshall
Miller, C. R.....Adrian
Miller, Frederick C.....Mt. Clemens
Miller, Sidney T., 80 Griswold st..Detroit
Millis, Wade, 603 Hammond Bldg.. "
Mills, A. J.....Kalamazoo
Miner, James A.....Marshall
Miner, John, 32 Buhl Blk.....Detroit
Miner, John W.....Jackson
Minor, Don E., Widdicomb Bldg. .....Grand Rapids
Moloney, John E., 802 Hammond Bldg. .....Detroit
Monaghan, Geo. F., 103 Griswold Street ..... "
Montgomery, R. A.....Lansing
Montgomery, R. M..... "
Moore, Geo. W., Campau Bldg...Detroit
Moore, J. B.....Lansing
Moore, Wm. A.. .....Detroit
More, John E., Mich. Trust Co. Bldg.....Grand Rapids
Morris, Louis E.....Manistee
Morse, A. B.....Ionia
Moulton, Luther V., 61 Houseman Bldg.....Grand Rapids
Murfin, J. O. 82 Moffat Bldg.....Detroit
Murphy, Alfred J., Municipal Ct. Bldg. ..... "
Naegley, Henry E.....Saginaw
Navin, Thomas J., 702 Hammond Bldg. .....Detroit
Newnham, R. L., Superior Court .....Grand Rapids
Nichol, John.....Ionia
Nichols, Geo. E..... "
Nichols, Jason E.....Lansing
Nichols, M.....Ionia
Nims, F. A.....Muskegon
Noah, Frank A., 31 McGraw Bldg..Detroit
Norris, Mark, Mich. Trust Co. Bldg.....Grand Rapids
Northrup, LeRoy.....Jackson
O'Brien, T. J., Mich. Trust Co. Bldg.....Grand Rapids
O'Brien, M. Hubert, 75 Moffat Bldg. .....Detroit
O'Hara, James..... ...St. Joseph
O'Keefe, Jas. E., Houseman Bldg .....Grand Rapids
O'Keefe, John F.....Saginaw
Osborn, J. W.....Kalamazoo
Ostrander, R. C.....Lansing
Ott, Louis, 47 Buhl Blk.....Detroit
Oxtoby, Jas. V., 7 McGraw Bldg., "
Paddock, Lewis H., 214 Hammond Bldg. ..... "
Paine, DeForrest..... "
Pagelsen, Dan F.....Grand Haven
Palmer, E. E.....Coldwater
Palmer, L. C.....Stanton
Palmer, L. R.....Coldwater
Palmer, L. G.....Big Rapids
Parker, Jas. S.....Flint
Parker, R. A., 12 Hodges Bldg.....Detroit
Parkinson, J. A.....Jackson
Paterson, Andrew C., 41 Buhl Blk.Detroit
Patterson, John C.....Marshall
Patterson, John H.....Pontiac
Patton, John, Jr., Michigan Trust Co. Bldg.....Grand Rapids
Pealer, R. R.....Three Rivers
Peck, Erastus.....Jackson
Pendleton, E. W., 900 Union Trust Bldg. .....Detroit
Perkins, C. E., Mich. Trust Co. Bldg.....Grand Rapids
Perkins, Willis B., Court House ..... " "
Perry, G. W.....Clare
Perry, Milton M.....Lowell
Person, Rollin H.....Lansing
Person, Seymour H..... "
Phelan, John.....Ludington
Phelps, Ralph, Jr., 82 Griswold St..Detroit
Porter, Wm. H.....Marshall
Post, Hoyt, 6 McGraw Bldg.....Detroit
Powers, James M.....Charlotte
Powers, John W., Houseman Bldg. .....Grand Rapids
Pratt, E. S.....Traverse City
Pratt, Frank S.....Bay City
Pratt, Fred H.....Traverse City
Prentis, B. T., 8 McGraw Bldg....Detroit
Prentis, Geo. H., 8 McGraw Bldg., "
Preston, J. T., Wonderly Bldg. .....Grand Rapids
Price, Richard.....Jackson
Priddy, F. E.....Adrian
Pringle, Eugene..... .....Jackson
Purcell, Miles J.....Saginaw

Quinn, John.....Harrison
Quinn, T. C.....Caro
Radford, Geo. W., 32 Home Bank Bldg. .....Detroit
Randall, Ira E.....Houghton
Rapley, Jesse A.....Yale
Rarden, C. L.....Greenville
Rea, Alex M., 37 Buhl Blk.....Detroit
Rees, Allen F.....Houghton
Reilly, C. J., 29 Monroe Avenue...Detroit
Rexford, D. C., 29 Buhl Blk..... "
Roberts, Clinton.....Flint
Robinson, Washington, 14 Moffat Bldg. .....Detroit
Robson, Frank E., 720 Hammond Bldg. .....
Rodgers, Harry E., 18 Houseman Bldg.....Grand Rapids
Rohnert, Morse, 14 McGraw Bldg. .....Detroit
Rose, C. H.....Evart
Rosenberg, Louis J.....Detroit
Russell, Alfred, 35 Newberry Bldg "
Russell, Chas. T.....Mt. Pleasant
Russell, F. J.....Hart
Russel, Henry, 601 Union Trust Bldg. .....Detroit
Sagendorph, D. P.....Jackson
Sampson, J. N.....Adrian
Savidge, B. N.....Reed City
Searle, K. S.....Ithaca
Sellers, E. H., Municipal Court Bldg. .....Detroit
Selling, B. B., 406 Hammond Bldg. "
Shaw, John C., 904 Union Trust Bldg. .....
Sheahan, P. J., 702 Hammond Bldg. .....Detroit
Shekell, John E.....Jackson
Sheldon, R. S.....Houghton
Sheppard, T. F.....Bay City
Shipman, John B.....Coldwater
Shuster, Anson E.....Ontonagon
Sibley, F. T., 80 Griswold Street...Detroit
Simons, Chas. C., 604 Wayne Co. Sav. Bank Bldg..... "
Simonson, John E.....Bay City
Simpson, Wm. H.....Detroit
Sloman, Adolph, 40 Buhl Blk.....Detroit
Smedley, C. O., Houseman Bldg. .....Grand Rapids
Smith, Chas. H.....Jackson
Smith, Chas. S.....Saginaw
Smith, Clement.....Hastings
Smith, Ernest C.....Kalkaska
Smith, Frank A.....Muskegon
Smith, Hal. H.....Ionia
Smith, Henry C.....Adrian
Smith, I. A.....Lansing
Smith, James Cosslett, Bank Chambers .....Detroit
Smith, J. M. C.....Charlotte
Smith, R. W.....Manistee
Smith, Vernon H.....Ionia
Smith, Wallis Craig, 513 Bearinger Bldg .....Saginaw
Smith, Wm. Alden, Wm. Alden Smith Bldg.....Grand Rapids
Smith, Wm. J., 409 Court St., Saginaw, W. S.
Snow, Byron A.....Saginaw
Snow, Chas. E.....Jackson
Snyder, Emil W., Majestic Bldg..Detroit
Spears, W. J.....Vassar
Speed, John J.....Detroit
Spier, S. B.....Mt. Clemens
Sprague, Wm. C., Majestic Bldg..Detroit
Springer, O. M., 62 Home Bank Bldg. ..... "
Stace, F. A., Houseman Bldg. .....Grand Rapids
Stearns, A. M.....Kalamazoo
Steere, J. H.....Sault Ste. Marie
Stein, Christopher, care Justices' Court .....Detroit
Stellwagen, A. C., 42 Home Bank Bldg. ..... "
Stevens, C. B.....Hart
Stevens, Fred W., care P. M. R. R. Co.....Detroit
Stevens, H. W.....Port Huron
Stevens, M. W.....Flint
Stewart, N. H.....Kalamazoo
Stewart, H. P.....Centreville
Stewartt, Louis E.....Battle Creek
Stine, W. F.....Charlotte
Stoddard, E. J., 12 Hodges Bldg...Detroit
Stone, John W.....Marquette
Stone, Fred H.....Hillsdale
Stone, Ralph, Detroit Trust Co....Detroit
Stone, W. S.....Richmond
Storm, Carl T.....Ann Arbor
Straker, D. Augustus.....Detroit
Streater, A. T.....Houghton
Stuart, Wm. J., Ledyard Blk., Grand Rapids
Sturges, Chas. A.....Sturgis
Sullivan, J. E., 207 Wayne Co. Sav. Bank Bldg.....Detroit
Swan, James, 30 McGraw Bldg.... "
Tabor, L. A.....Lawton
Taggart, Edwin, Michigan Trust Co. Bldg.....Grand Rapids
Taggart, Moses, Mich. Trust Co. Bldg..... " "
Tarsney, T. E., 15 Whitney Opera House Bldg.....Detroit
Taylor, E. H.....Vassar
Taylor, Orla B., 13 Butler Bldg....Detroit
Taylor, Walter R.....Kalamazoo
Temple, Chas. E., Michigan Trust Co. Bldg.....Grand Rapids
Thompson, B. M.....Ann Arbor
Thompson, Chas. E.....Bad Axe
Thompson, G. W., Norris Bldg. .....Grand Rapids
Thorington, C. C.....Romeo
Thornton, Howard A.....Grand Rapids
Totten, Wm. D.....Detroit
Townsend, Chas. E.....Jackson
Townsend, W. L.....Gaylord
Travis, P. H., Mich. Trust Co. Bldg.....Grand Rapids
Tucker, J. G.....Mt. Clemens
Tucker, W. S.....Big Rapids
Tuttle, Arthur J.....Leslie
Underwood, M. W.....Traverse City
Valentine, G. M.. .....Benton Harbor
Van De Mark, S. O., 68 Moffat Bldg. .....Detroit
Vanderwerp, John.....Muskegon
Van Riper, Jacob J.....~~St. Joseph~~ Ann Arbor
Van Zile, Phillip T., 826 Hammond Bldg. .....Detroit

Voorheis, P. W.....Plymouth
Wait, Harry H., 1009 Majestic Bldg Detroit
Walbridge, H. E.....St. Johns
Walker, Myron H., Housemman Bldg.....Grand Rapids
Walsh, Jos.....Port Huron
Walters, Henry C.....Detroit
Wanty, Geo. P., Goverment Bldg. .....Grand Rapids
Ware, Wm. E.....Jackson
Warner, E. W.....Detroit
Warner, Wm. W.....Allegan
Warren, Benj. S., 606 Union Trust Bldg. .....Detroit
Warren, Chas. B., 904 Union Trust Bldg. .....Detroit
Watkins, Roy M.....Grand Rapids
Watt, Chas. A., City Hall.. " "
Watts, Richard A.....Adrian
Weadock, Geo. W.....Saginaw
Weadock, John C.....Bay City
Weadock, Thos. A. E.....Detroit
Weaver, Clement E., Masonic Temple .....Adrian
Webster, Elmer E.....Pontiac
Wedemeyer, W. W.....Ann Arbor
Weeks, Edgar.....Mt. Clemens
Weeks, M. D.....Albion
Wells, Wm. H., 700 Union Trust Bldg. .....Detroit
Wesselius, Sybrant, Housemman Bldg.....Grand Rapids
Westerman, Walter W.....Adrian
Wetherbee, Wm. H.....Detroit
Wheat, F. S.....Caro
White, Chas. E.....Niles
Whiting, Mary Collins.....Ann Arbor
Whitney, Fred W.....Detroit
Wicks, K. E., Houseman Bldg. .....Grand Rapids
Wilson, Chas. M., Michigan Trust Co. Bldg.....Grand Rapids
Wilson, Chas. L.....Saranac
Wilson, F. W.....Muskegon
Williams, Arthur B.....Battle Creek
Williams, Benj. .....Jackson
Williams, George D.....Flint
Williams, W. B.....Lapeer
Wilkinson, Ralph B., 43 Buhl Blk..Detroit
Wilson, Hugh E., Widdicomb Bldg. .....Grand Rapids
Wilson, Thos. A.....Jackson
Wilson, Walter S..... "
Winsor, H. E.....Marshall
Wolcott, Alfred, Ct. House.Grand Rapids
Wolcott, Frank T., 37 White Bldg. .....Port Huron
Wolcott, L. W., Michigan Trust Co. Bldg.....Grand Rapids
Wolf, G. A., Mich. Trust Co. Bldg. ..... " "
Wood, Clark C.....Lansing
Wood, E. T., 38 Moffat Bldg.....Detroit
Wood, Fred B.....Tecumseh
Wood, Nathan S.....Saginaw
Worch, Rudolph.....Jackson
Wright, Benj. S.....Mt. Clemens
Wright, C. A.....Houghton
Wunsch, Henry, 4 Moffat Bldg....Detroit
Wurzer, Louis C., Wayne Co. Bldg. "
Yeo, Wm. F.....West Branch
Yerkes, Geo. B., 41 Home Bank Bldg. .....Detroit
Young, H. O.....Ishpeming
Younglove, Lyle G., 43 Buhl Blk...Detroit

PROCEEDINGS

PROCEEDING OF
THE FOURTEENTH ANNUAL MEETING
...OF...
THE MICHIGAN STATE BAR ASSOCIATION
DETROIT, MICHIGAN
JUNE 18th AND 19th 1903

Thursday, June 18th, 1903, 10 a. m.

Music by Haug's Mandolin Orchestra.

President Sloman: The Association will please come to order. The first subject on the programme is an invocation by the Rev. William Beatty Jennings. The Association will kindly rise.

INVOCATION.

Dr. Jennings. We adore thee, Lord, God, as God alone, infinite in thy perfection, and infinitely precious to us, Thy sons. We thank thee for all Thou art in Thyself. We thank Thee for the expression of Thyself which Thou hast given in the world, and in Thy infinite word. We thank Thee for the unvaryingness of Thy law, because it is good. It varies not. Because it varies not, our confidence in Thyself is strong. We know what to expect from Thee. We know that we can rely absolutely upon Thee. Thou art the God of justice and of truth. Righteousness and judgment are the habitation of Thy throne. We bless Thee for Thy mercy; in that is our hope. We have sinned against Thee; we have transgressed Thy holy law; we have done those things that we ought not to have done, and left undone those things which it was our duty to do. Have mercy upon us, and visit not Thy rod upon us. And now, we beseech Thee, be present in this gathering of splendid men; men who have charity at heart; who have at heart the high interest of the law and justice in our city, in our state and in our country. We pray Thee that Thou wilt bless them in their persons; that Thou wilt enlarge their mission of truth and right; that

Thou wilt make them firm in their devotion to that which is right, and prosper them in their daily work. We pray Thee that the legislative and judicial department of our administration may be blessed of Thee. We ask, too, Lord, God, to bless Thy servants, the mayor of our city, the governor of our commonwealth, and the president of these United States, with Thy heavenly grace. Hear us in this our prayer, and be with us according to Thy most holy will. through Jesus Christ, Thy Son, our Lord. Amen.

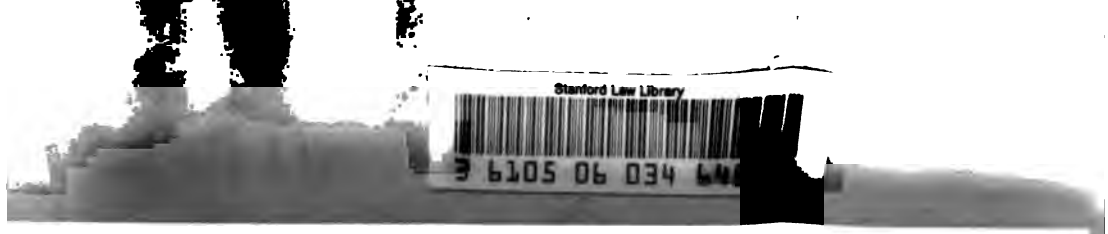
President Sloman: It is a matter of great regret gentlemen, that the governor of the state cannot be with us this morning. I have a letter from him which I desire to read:

"I am in receipt of your letter of the 6th inviting me to be present at the annual meeting of the Michigan State Bar Association to be held in Detroit Thursday and Friday of this week. I regret that official duties render it impossible for me to attend. I appreciate the honor and courtesy extended to me in this matter, and trust that the Association will have a most valuable and important meeting. Very respectfully, A. T. Bliss, Governor."

President: If there is any gentlemen in this State whose words of welcome will be warmer or more earnest than that of our fellow townsman, Mayor Maybury, I have yet to meet him. I take pleasure in introducing to you the Hon. William C. Maybury. (Applause.)

ADDRESS OF WELCOME.

Hon. Wm. C. Maybury: Mr. Chairman and gentlemen—It affords me unusual pleasure to welcome to the city the members of the State Bar Association. And I will not content myself with saying that you are welcome, but that we realize that an association of gentlemen can assemble in Detroit of the character of this Association which will bring us more benefit than we can give you. The discussions of the conventions that assemble here make a sort of summer school for the city of Detroit in which we are the persons benefitted. And therefore, I add to the word of welcome a word of thanks to you for having come to Detroit and giving to us this very profitable occasion. I am somewhat embarrassed, Mr. Chairman, by the fact that it should seem no word of welcome was necessary to citizens of this State in coming to Detroit, a metropolitan city, because it is like welcoming you to your own homes. for Detroit certainly is a part of the State in which, while we take special pride, we know that the people of the State of Michigan have a pride also in their metropolitan city. Detroit has been very fortunate in some things, my dear friends. It was fortunate in its founders. They brought here and inculcated the principles of equality, of justice and of liberty. And the first school house erected in Detroit, in following the customs of France, had the three latin



words equivalent to the words I have spoken, emblazoned above the door. They dedicated the City of Liberty, Justice and Equality. Then they put upon it the cap-sheaf of morality and religion. With such a foundation is it to be wondered at that for half a century Detroit knew no difference between the white man and the Indian? That not a drop of blood was shed; that the principles that were placed above the school house door were put into practical effect in the City of Detroit, and that coupled with the teachings of religion. But we are fortunate again. In the great disaster of 1805, when the city was swept by fire, and but one or two houses remained standing, upon the ashes of the burned city was erected a new city, and men were obliged to forecast what Detroit would be, and what Detroit of the future would demand, and as a consequence the territorial judges and governor were constituted a committee, commissioned to lay out the city, which they did after the plan of the City of Washington, which was then about completed. I do not know but the French engineer who drew the plans, came here from Washington and gave wise counsel in the matter. And yet with how limited a forecast the wisest of that day and generation is manifested right here. Even the limits of the city, or the plans laid out were just about right for a decade. Standing where the city hall now stands the prophetic vision of the new founder of 1805 limited practically the city on the east at this point, and on the west by Washington boulevard, and on the north by Grand Circus park. How surprised they would be to-day if they could come and see where this goodly city they founded had overran its limits, with its beautiful homes and its beautiful drives.

My dear friends, you are here as the members of the State Bar Association. I do not think there is any State within the union that has more reason for thankfulness to those who come to the State of Michigan. I question whether there ever came to any State than Michigan, men who were imbued with a higher ideal of life than those who provided the means, not only learned men, or professional men, but the farmer, and every farmer who came to Michigan in the early days seemed to have a high ideal of life. And when we go back to consider the early members of the bar, and those of us who remember those not long gone, you will recognize the reason for this feeling of veneration and love. They were men well instructed in their profession; they were men of a rounded life; men who seemed to realize and revered the home-loving qualities of life, and who exercised their profession to the general good of the community. If we go into the French life of Detroit almost at once we strike the name of James F. Joy, the business lawyer, the man of affairs, the predecessor of the men who are being called the kings and princes of business, the rulers of business. He was a pioneer as it were, in what to-day has become common throughout our country. If you delve in the literature and history of Michigan you very soon run across the facile pen of Wells and of Walker and the beautiful and classic diction of Judge Campbell. And if you desire to compare the forensic bar of Michigan with that of any State or that of any time you again

hear the words of Wells and of Lothrop and of Chipman. And if you turn to the social life and its pleasantry, there comes up the sweet and delightful memory of William Sprague. And so these men have not only been honored and great in their profession, but they have left a legacy that is of national value, an influence that will come to the men assembled here in this convention. Now, to this city, with these memories and these surroundings, I bid you a most cordial welcome. (Applause.)

(See appendix for President's Address. President Adolph Sloman, of Detroit.)

SECRETARY'S REPORT.

Grand Rapids, Mich., June 15, 1903.

Gentlemen: I beg leave to submit the following report for the Association year 1902-03.

DUES.

By dues from members	$423 10
To paid treasurer	372 10
Cash in hands of secretary	$ 51 00

MEMBERSHIP.

Members at date of last report (August 14, 1902)		573
Members reported having died since last Meeting	8	
Members resigned since last meeting	15	
Members who cannot be located	5	
Members removed from state	4	
Members dropped	1	
	33	33
		540
Members admitted during year 1902-3		73
Total Members		613

MEMBERS REPORTED AS HAVING DIED SINCE LAST MEETING.

Bean, Seth ..... Adrian	Hayden, Geo. ..... Ishpeming
Crocker, Thos. M. ..... Mt. Clemens	Higgins, S. G. ..... Saginaw
Durand, Geo. H. ..... Flint	Just, W. J. ..... Ionia
Evans, Wm. J. ..... Pentwater	Leonardson, W. D. ..... Ionia
Felker, Henry J. ..... Grand Rapids	Thompson, G. B. ..... Detroit

MEMBERS RESIGNED SINCE LAST MEETING.

Corbin, John M. ..... Detroit	Kirchner, Otto ..... Detroit
Fallas, H. B. ..... Grand Rapids	Kirk, John P. ..... Ypsilanti
Forrester, Edw. G. ..... Grand Rapids	Lyon, F. A. ..... Hillsdale
Finch, J. L. ..... Grand Rapids	Lathrop, Cyrus E. ..... Detroit
Grant, J. H. ..... Manistee	Orton, Jesse F. ..... Grand Rapids
Harris, W. C. ..... Detroit	Russell, F. J. ..... Hart
Hatch, H. H. ..... Detroit	Sweet, E. F. ..... Grand Rapids
Heckert, B. F. ..... Paw Paw	Tuttle, Jonathan B. ..... Grand Rapids
Herbst ..... Ann Arbor	Zuver, J. H. ..... Battle Creek
Kent, C. A. ..... Detroit	

MEMBERS WHO CANNOT BE LOCATED.

(Last known address.)

Benjamin, Wm.....Jackson
Miner, Jas. A.....Marshall
Smith, Frank A.....Muskegon
Warner, W. E.....Detroit
Whitney, Fred W.....Detroit

MEMBERS REMOVED FROM STATE.

Finch, J. L., formerly of.....Lansing
Forester, Edw., formerly of.....Lansing
McGarry, Thos., formerly of...G'd Rapids
McGarry, Will, formerly of....G'd Rapids

MEMBERS DROPPED.

Salsbury, L. K.....Grand Rapids

MEMBERS ADMITTED TO THE ASSOCIATION SINCE THE MEETING OF THE ASSOCIATION HELD ON AUGUST 12-13, 1902:

Abbott, Charles S., 823-5 Majestic Building.....Detroit
Abbott, Merrie H.....Detroit
Bayne, James H., 52 Buhl Block.....Detroit
Beaumont, John W.....Detroit
Bierce, Herert Mac O., 32 Buhl Block.....Detroit
Bird, John E.....Adrian
Bron, J. Earle.....St. Johns
Chamberlain, F. C.....Detroit
Champion, Charles W.....Coldwater
Clark, E. S.....Bay City
Clark, Geo. W.....Bad Axe
Clark, Joseph H.....Detroit
Clark, O. S.....Battle Creek
Collins, W. A.....West Bay City
Creswell, Harry L., Court House.....Grand Rapids
Cummins, Geo J.....Harrison
Dennison, Edward J.....Marshall
Donahoe, C. F.....Munising
Durand, C. A.....Flint
Emmons, Harold H., 61 Moffat Building.....Detroit
Engelhard, Charles, 62 Home Bank Building.....Detroit
Field, George S., 30 Buhl Block.....Detroit
Flannigan, R. C.....Norway
Forler, Henry C. L., 58 Buhl Block.....Detroit
Fox, George R., Shearer Building.....Bay City
Freeman, Henry B.....Munising
Friedman, William, 504 Hammond Building.....Detroit
Gordon, Wm. D.....Midland
Helfman, Henry, 61 Moffat Building.....Detroit
Hitchcock, Charles W.....Bay City
Holden, Lawson C.....Sault Ste. Marie
Hooper, Joseph L.....Battle Creek
Haggett, Martin Chas.....Grand Rapids
Joslyn, Lee E.....Bay City
Kissane, Thos., 507 Hammond Building.....Detroit
Knight, Willard A.....Battle Creek
Ladd, S. W.....Port Huron
Lockton, Andrew W.....Battle Creek
Knight, Seth W.....Mt. Clemens
Lemkie, Felix A.....Detroit
McNabb, Duane T.....Bad Axe
MacLean, Hector, 166 Field avenue.....Detroit
MacKay, John D.....Detroit
Marr, Charles H.....Wyandotte
Metzger, Henry F.....Sault Ste. Marie
Millis, Wade, 603-7 Hammond Building.....Detroit
Moulton, Luther V., 61 Houseman Building.....Grand Rapids

Murfin, J. O., 82 Moffat Building	Detroit
Northrup, LeRoy	Jackson
O'Brien, Hubert W., 76 Moffat Building	Detroit
O'Keefe, Jas. E., Houseman Building	Grand Rapids
Ott, Louis, 47 Buhl Block	Detroit
Oxtoby, James V., 7 McGraw Building	Detroit
Palmer, E. E.	Coldwater
Palmer, L. C.	Stanton
Palmer, L. R.	Coldwater
Paterson, Andrew C., 41 Buhl Block	Detroit
Quinn, John	Harrison
Rea, Alex. M., 37 Buhl Block	Detroit
Rodgers, Harry E., 18 Houseman Building	Grand Rapids
Simons, Charles C., 604-5 Wayne County Savings Bank	Detroit
Simpson, Wm. H.	Detroit
Smith, Ernest C.	Kalkaska
Smith, Wm. J.	Saginaw, W. S
Stein, Christopher E.	Detroit
Townsend, W. L.	Gaylord
Vanderwerp, John	Muskegon
Voorheis, P. W.	Plymouth
Wait, Harry H., 1009 Majestic Building	Detroit
Watkins, Roy M.	Grand Rapids
Wilkinson, Ralph B., 43 Buhl Block	Detroit
Wright, Benj. S.	Mt. Clemens
Yeo, William T.	West Branch
Younglove, Lyle G., 13 Buhl Block	Detroit

BOOKS, PAMPHLETS, ETC., IN SECRETARY'S OFFICE.

Alabama State Bar Association, Proceedings for years	1901, 1902
Bar Association of Baltimore City, Constitution and By-laws	1902
The Colorado Bar Association, Proceedings for years	1901, 1902
Georgia Bar Association, Proceedings for years	1901, 1902
Indiana Bar Association, Proceedings for year	1902
Iowa State Bar Association (2 vols.), Proceedings for year	1902
Bar Association of State of Kansas, Address of President	1902
Kentucky State Bar Association, Proceedings for years	1901, 1902
Louisiana Bar Association, Proceedings for year	1902
Minnesota State Bar Association, Proceedings for year	1902
Montana Bar Association (1 vol.), Proceedings for years	1885 to 1902
Nebraska State Bar Association, Address of President	1902
Nebraska State Bar Association (1 vol.), Proceedings for years	1900 to 1902
New Mexico Bar Association, Proceedings for years	1902, 1903
Association of the Bar of New York City, Proceedings for year	1903
North Carolina Bar Association, Proceedings for years	1901, 1902
South Carolina Bar Association (8th and 9th meetings, 1 vol.), Proceedings for years	1892, 1902
Bar Association of Tennessee, Proceedings for years	1901, 1902
Texas Bar Association, Proceedings for year	1902
Virginia State Bar Association, Proceedings for years	1901, 1902
Washington State Bar Association, Proceedings for years	1901, 1902
Wisconsin State Bar Association, Proceedings for year	1901
Copies of a bill to establish an Intermediate Court	100 copies
Copies of a bill to establish Torrens System of Land Registration	100 copies
Michigan State Bar Association, rPoceedings of 1901	100 copies
Michigan State Bar Association, Proceedings of 1902	25 copies

WILLIAM J. LANDMAN,
Secretary.

* * * * * * * *

Judge Donovan: I have just had a telephonic communication from Lansing, in conversation with Senator Simons, who tells me the time expires for the Governor to approve or disapprove bills at 12 o'clock to-day. I, therefore, deem it proper to move the suspension of rules and take a vote upon the ques-

tion of the Supreme Judges and telegraph the Governor imme emphasize the matter that he should sign the bill. I make it as a

Mr. Brennan: I support the motion.

President: It is moved and supported that the regular order be suspended and that we proceed to a vote, giving expression t ments regarding the bill for the relief of the Supreme Court.

The motion was put to a vote and carried, with but one dissei

Mr. Brennan: Mr. Chairman, I move you, sir, that it is the State Bar Association that it is in favor of the bill recently passed Legislature, increasing the number of judges of the Supreme Cou to eight, and that we make the request of his excellency, the C telegram, to sign the bill.

Mr. Alfred Russell: I support the motion.

The motion was adopted unanimously.

Mr. Alfred Russell: I move, Mr. Chairman, that the Chairı meeting immediately send a dispatch with regard to the action of

President Sloman: I take it for granted, Mr. Russell, that v in Mr. Brennan's motion, and I shall take the liberty to appoint and Mr. Brennan a committee to prepare a telegram and sen Governor at once.

The committee thereupon retired.

* * * * * * * *

President Sloman: What is your pleasure with the report o tary? No response. If there is no objection I will order it filed.

The next order of business is the report of the Treasurer, Mr. Grand Rapids, Michigan.

REPORT OF TREASURER FOR YEAR ENDING JUNE 18,

Balance from last year.....
Received from Secretary:
Dues for previous year.....
Dues for current year.....

Total .....
Expenses pertaining to 1902 meeting:
Rent of hall, voucher No. 1.....
Music at meetings, voucher No. 2.....
Stenographic report, voucher No. 3.....
Music and expenses at dinner, vouchers Nos. 4-9.....
Printing, stationery, circulars and incidentals, vouchers Nos. 10-17.....
Printing and binding Proceedings, voucher No. 17½.....

General expenses for year ending August, 1902, paid this year:
Secretary's salary, voucher No. 18.....

Printing proposed bills—"Torrens" and "Intermediate Court," vouchers Nos. 19-20	29 50	
Printing, stationery and incidentals, vouchers Nos. 21-22	15 02	
		$ 144 52
Expenses of committees, current year:		
Committee on Grievances, voucher No. 23	$ 20 10	
Committee on Legislation, vouchers Nos. 24-25	99 34	
		$ 119 44
Printing, postage, stationery, stenography and incidental expenses of President's office during year, vouchers Nos. 26-42		86 60
Same for Secretary's office, vouchers Nos. 43-56		83 22
Total disbursements		$ 831 18

SUMMARY.

Receipts	$1,123 22
Disbursements	831 18
Balance on hand	$ 292 04

A. C. DENISON,
Treasurer.

The Chairman: If there is no objection I will refer the report of the Treasurer to the Auditing Committee, which I will appoint later. So ordered.

The next business is the report of the Committee on Legislation and Law Reform, by the Chairman, Mr. Patterson, of Marshall.

(See appendix for Report of Committee on Legislation and Law Reform. John C. Patterson, of Marshall, Chairman.)

The President: Gentlemen, what is your pleasure with this report. It is open for discussion. There are some very meritorious matters brought out here which should receive your careful consideration.

Mr. Bates: I move that the report of the committee be accepted and adopted as the sense of this convention.

Motion supported.

Mr. Brennan: I will add, with the consent of the mover, that the report be accepted and that the recommendations therein contained be referred by the incoming President to the appropriate committees, including the supplemental report.

President Sloman: Are there any remarks on the motion as amended?

Mr. Donnelly: My attention was called away when parts of the recommendations were being read. If there is no objection, I would like to ask the chairman of the committee what the recommendations were in reference to admission to the bar?

Mr. Patterson: In answer to the inquiry, I will state, that a majority of the committee was of the opinion that the admission to the bar required the exercise of judicial power, and not legislative, and that

the legislature could not control judicial discretion in such matters. The courts in a number of the States have passed upon this question. In New York the rules of the Court of Appeals require all student candidates for admission to the bar, to be examined, and recommended by the State Board of Bar Examiners. Some of the States require public notice of application for admission to the bar to be given. New York and Maryland have the most satisfactory system for admission to the bar, so far as your committee was able to examine. Maryland adopted a very satisfactory system, last year. These systems were based upon the assumption, that the procedure for admitting a person to the bar, and licensing attorneys at law and solicitors in chancery to practice in the courts; is the exercise of judicial power, and that the courts have exclusive jurisdiction in the premises.

This question was argued by the late Prof. Theo. Dwight before the Court of Appeals of the State of New York in the case of Ex. Parte Cooper, 22 N. Y., 81, and an able opinion was rendered by Judge Samuel Selden. The question, also, came up in the United States Supreme Court, in the case, Ex. Parte Garland 4, Wallace 333. The most satisfactory opinion, to my mind, that I have been able to find, is the case of In Re Splane, 123 Penn., S. 527-540, where Chief Justice Paxton very clearly and conclusively laid down this rule. Some of you will remember that at a meeting of the American Bar Association at Buffalo in 1899, Prof. Henry Wade Rogers related how the question had been raised, and settled in the State of Illinois in a case where an act of the legislature had undertaken to nullify, and vacate a rule of the Supreme Court. The case was argued by Prof. Blewett Lee, of the law department of the North Western University. In this case, In Re Day, 181 Illinois, 73, the Supreme Court of the State of Illinois held, that the act of the legislature was class legislation, and that the legislature had usurped judicial powers, in the premises, and that the statute was therefore null and void. I think our Supreme Court has recognized this principle. I think it is thoroughly settled by the great weight of authority. The substance of this recommendation is. that this association requests the Supreme Court of Michigan to prescribe rules for admission to the bar, and make a rule which will require all students, with, or without diplomas, to be examined and have their antecedents inquired into, their moral characters investigated, as well as their knowledge of the law. Assuming that there are other qualities and qualifications, besides mere legal learning, that are necessary for the lawyer, and for the discharge of his important functions, in view of the lawyer's different relations to society and his clients. The object of this recom-

mendation is that this association requests the Supreme Court to take the entire matter in hand. It will put the Michigan bar upon a higher plane. There are only thirteen States in the Union to-day, that admit to the bar upon diploma. All of the Eastern and New England States have abolished that system, as well as many of the Western States. We think this will be in the interest of the public, and in the interest of the profession, and it will certainly be a satisfaction to every lawyer in the State of Michigan to be able to feel, that the standard for admission to the bar in his State, is as high as that of any other state.

Mr. John C. Donnelly, of Detroit: Mr. Chairman, I am not prepared to say without further thought on the matter that the suggestion of the committee is all right. It suggests, however, a very radical change in the manner by which young men become members of the bar. It might have a disastrous effect on the institutions granting diplomas. That is, of course, something I don't care anything about. I am not prepared to say that an examination by a commission appointed by the Supreme Court is likely to be a better test of the fitness and capacity to be a member of the bar than the examination he has to undergo before he gets a diploma from the University of Michigan. So that I think it is well to give some more consideration to the matter. I think the Association ought to do that before adopting such a radical measure. There was quite a spirit of criticism aroused, and I think somewhat justified, which seemed to reflect upon the fitness of the authorities of the Law College of Detroit and the University of Michigan, because those are the only two schools whose students are admitted on diploma, on account of the fact that there is no inquiry made into the moral fitness of the candidate. That I believe created some feeling, not only in the University of Michigan, but among the members of the Legislature. Now, I am not inclined to agree with the committee, as to the wisdom of doing away entirely with the plan of admission on diploma. It cannot do any great harm to think about it a little longer. While I am not going to object strenuously to the report, I don't want to be considered as agreeing in every respect to what has been said heretofore on this question.

President Sloman: If I may be permitted to interrupt. There is a Judge of our Circuit Bench who left us a short time ago, whom we all love. His picture is with us now. I hope he will be present to-day. Judge Frazer is anxious to tell you all about him and the likeness of our beloved judge. Will you kindly allow the suspension of the discussion for about five minutes to give Judge Frazer an opportunity to address us?

Mr. Patterson, of Marshall: I wish to state right here in the presence of this Association, what I have stated repeatedly elsewhere, that this measure was not intended as any criticism upon the worth of the professors of the Law Department of the University of Michigan or the Detroit College of Law. If there have been any words used to which exception might be taken, to the chairman of your committee belongs the responsibility of it. His shoulders are broad, he is thoroughly in earnest in this measure, and perhaps his enthusiasm has led him to some extravagant expressions. And if there has been anything said in any circular that has been published that could be possibly construed in that way, the other members of the committee are not responsible, but the broad shoulders of your chairman will bear that burden. But right here, if what has been said has been said in the interests of a certain measure, a certain reform, your chairman believes is essential and all-important, * * * Now, the professors of Harvard University and the Law Department of Cornell University, and Columbia University; their students all have to go to the Board of Examiners, and you will remember the chairman of the State Board of Examiners of the State of New York has reported repeatedly that the graduates of the law school have a snap when they get before the State Board of Examiners. Very few, if any, have ever failed to pass, so far as legal learning is concerned. It raises the standard. It was the furthest from the designs of the parties that had anything to with this measure to cast any reflection upon any law school. We appreciate their work; we appreciate the men laboring there, and we have no doubt they are doing good work, but this measure supplements their work.

Mr. Donnelly: I understand that the motion is that the report be received and referred to the incoming officers of the Association. If that is so, I have no objection to it.

Chairman Sloman: I think the motion is broader than that; that we acquiesce in the recommendations of the committee——

Mr. Donnelly: I move you, then, Mr. Chairman, if it is to be disposed of in that way that the report be received and referred to the incoming officers in the proper way.

Mr. Warren: I support the motion.

The President then stated the motion.

Mr. Pound: It seems to me something should be done to this report beyond that. This is quite an elaborate report, and shows a great deal of work, and

we ought to dispose of all of it, except this one section, which requires further consideration by the members of the bar.

Mr. Patterson: Of course, if the amendment is adopted you refuse to adopt the recommendations of the committee. So far as that measure is concerned you reject it. I hope the amendment will not be adopted. Not that I have any special pride in the matter, but in the interests of progress and in the interests of the bar of Michigan, that it may be placed on the same plane as the bar of other states——

Mr. Donnelly: If it will be any solace, I will withdraw my motion, with the consent of the second.

Mr. Warren: I will withdraw the second.

The Chairman. The amendment is withdrawn. The matter is now open for discussion.

(The original motion was then put to a vote and carried unanimously.)

* * * * * *

The President: I have a letter, gentlemen, from Judge Hooker, who expresses his regret in not being able to be with us. He says he has important business in the work of the Supreme Court which detains him. However, I believe some of the judges will be with us before the day is over. Judge Seymour Thompson is expected to arrive at noon. The committee have gone to meet him.

(See appendix for Presentation to Wayne County of Portrait of Judge Carpenter, Judge Robert E. Frazer, of Detroit.)

* * * * * *

The Chairman: Gentlemen, this subject is open for discussion, and I shall be pleased to hear from any of you. The report of the Committee on Legislation and Law Reform, which was adopted, includes the recommendation of this law, and that it be taken up by the incoming committee for action; so it will be unnecessary to adopt any resolution to that effect.

Now, gentlemen, a word more. This Association is entitled to three representatives to the American Bar Association, which holds its meeting at Hot Springs, Va., on August 26, 27 and 28. They are accredited delegates and are appointed by the incoming President. It has been the custom to make this announcement in order that those who expect to attend the meeting may have their names presented to the Secretary for consideration, as I said, by the incoming President. We are very anxious that this Association should be represented at that meeting. If there are any present who intend to go, I wish they would please give their names to the Secretary.

The President: I wish to announce that the boat ride tendered by the

Detroit Bar Association will be on the steamer Pleasure, instead of the Sappho, and will leave the foot of Woodward avenue at 2:30 o'clock, city time, instead of 2 o'clock, as announced on the programme. Mr. Seymour D. Thompson is expected to arrive from New York on the noon train, and a committee consisting of Mr. Alfred Russell, Mr. George William Moore and Mr. William L. January has been appointed to meet him and bring him right to the boat, so that we may have the pleasure of getting acquainted with him in the afternoon.

The meeting will now stand adjourned until 10 o'clock in the morning.

FRIDAY MORNING, JUNE 19, 1903.

The President: The Bar Association will please come to order. In opening the meeting this morning I wish to announce that the Governor has signed the bill for the relief of the Supreme Court, and I take pleasure in extending to you my hearty congratulations upon the work that has been accomplished in securing the passage of the law for the relief of the Supreme Court and in getting it signed by the Governor. (Applause.) I want to say that the Committee on Legislation and Law Reform, and the rank and file of the State Bar, are entitled to a great deal of credit for the work they have done in connection with securing the passage of that bill. It is evidence of what the State Bar Association can accomplish if they will only make the effort. The rank and file of the Association, gentlemen, want you to tell them that you need them, that they are wanted in the work. If they are asked to assist you will find that they are ready to respond, and respond handsomely. I want to say further that out of over six hundred members with whom I corresponded, there were only a few who failed to come to the front and aid in the work that this Association had undertaken.

Gentlemen of the state bar, as the story goes, an Irishman was run over by a street car (a Detroit United Railway car, of course) and he went to a lawyer to see what he should do about it. The lawyer advised him to sue for damages. "Damages! What do I want with more damages? I've had damages enough; I shall sue for repairs." It may be we shall want to do the same thing after hearing the next address, on "Damage Law and Damaged Lawyers." Now, we have with us a distinguished gentleman of the New York bar, one of the ablest writers of the day, who, at a great deal of personal sacrifice, has come here to honor the State Bar Association today, and I take great pleasure in introducing to you the Hon. Seymour D. Thompson, of New York.

(See appendix for article on Damage Law and Damaged Lawyers. Hon. Seymour D. Thompson, of New York.)

It is moved and supported that the thanks of the Association be extended to Mr. Thompson for his very able address.

The motion being put to a vote, was unanimously carried.

The President: Mr. Thompson, I desire to extend to you our thanks for the very able and interesting address you have given us this morning.

President Sloman: I notice in the audience a gentleman who belongs to our state, and who for some two years past has held the honorable position

of judge of the Supreme Court of the Philippine Isands—Judge Johnson. We shall be glad to hear from you.

Judge Johnson: Mr. President and Members of the State Bar Association, and Fellow-Countrymen: It gives me a peculiar pleasure, gentlemen, to use that phrase, "my fellow-countrymen." It has been some time since I have addressed a gathering of men of whom I could make that statement. For the last two years and more I have been in the Philippine Islands, that land where they do not give the gold cure, but the water cure. I do not know what I can say to you, gentlemen, as I understand I am expected to speak tonight upon some reports in the Philippine Islands, probably the most interesting portion of our country. But just for a moment, perhaps, you would be interested to know what character of a country we have in the Philippine Islands. First, as to the inhabitants and as to the territory: The Philippine Islands are composed of a group of islands of about a thousand in number, consequently a territory equal to that of Kentucky, Ohio and Michigan, with just as fertile a soil as you have in these three states. The climate is splendid. You have heard much of the wet and dry seasons. I have never seen a drouth there yet equal to a drouth that I have seen often in Michigan. During the three years I have been there, there has not been as much rain fall as you usually have in a period of twelve months in Michigan. That much for the climate. Our mornings and evenings from January to January are very much like the balmy mornings in May and June in Michigan; and largely because of that, to some people who have gone there is due the fact of their losing their heads. I have known people that have lost their heads in Michigan, people who go from Michigan to California. Every man who changes his climate, unless he is careful, is liable to suffer injury to his health.

As to the government: When the American government took over the islands the Spanish government was ruling the islands with an iron hand. Three hundred years of Spanish rule has made the Philippine a very servile man, and as I said to Judge Swan this morning over in the federal court, the Spanish officers never allowed a Philippine to step in front of him and address him. He is always obliged to stand behind an officer and talk to him over his shoulder. Be it to the praise of the American government, we have a government over there which accords to the Filippino every right that the American citizen enjoys here in Michigan. (Applause.) The Spanish government ruled the Philippine Islands from 1521 until the 13th day of August, 1898, covering a period of nearly three hundred years, and during that period they never gave

to the people a civil government until 1885, a period of about thirteen years prior to our taking possession of the country. In less than four years, on the 2nd day of July,—on the 4th day of July, I mean to say—1902, the American government had given to the Filippino of every county or pueblo the right of absolute self-government, as in this state. Under the Spanish rule every province was governed by three men, first appointed by a commission, composed of a governor, a treasurer and a supervisor. The governor is elected by the people, substantially as you elect a governor of Michigan. In every pueblo, and I mean by that a town, the people elect their common council, or what is equivalent to it, appoint their policemen, levy their taxes, and collect their taxes, exactly as you do in Michigan. When Dewey sunk the Spanish fleet there wasn't a school building in the entire archipelago; now a territory as large as that of Michigan have common schools devoted to the teaching of the common branches, in every pueblo throughout the circumference of that great territory. (Applause.) And, gentlemen, we have Governor Taft there, the greatest American that I ever saw, and those people there absolutely worship him. I presume that history never recorded such an event, where one government has sent a governor into a foreign territory that has become so popular among all classes of people as Governor Taft. Governor Taft's office is open from the time he gets up until he retires at night to the Filippino, be he the poorest man of the country or the richest man in any part of the land. God praise the American people, and President McKinley especially for sending that big-hearted man, that big man, big in heart and big in person and big in brain, over there to govern the poor, down-trodden, priest-ridden people. Gentlemen, there is much more I would like to say to you concerning the administration of affairs there, but I will defer that until tonight, when I shall speak especially with reference to the courts. I am obliged to you.

(See appendix for Report of Committee on Legal Education and Admission to the Bar. Prof. Harry B. Hutchins, of Ann Arbor.

President Sloman: Gentlemen, you have heard the report. What is your pleasure?

Mr. Warren: I move that the report be accepted and the recommendation be concurred in.

The motion was seconded and unanimously adopted.

(See appendix for Report of the Committee on Grievances. C. W. Perry, of Clare.)

President Sloman: You have heard the report of Mr. Perry. What is your pleasure?

On motion, duly seconded, the report was received and referred to the Committee on Grievances for next year, to be appointed in the future.

(See appendix for Report of Memorial Committee. Thomas A. E. Weadock, of Detroit.)

The President: You have heard the report of the Memorial Committee. What is your pleasure?

Mr. Warren: I move it be adopted and that the oral report be received and the committee have permission to make and file a report in writing.

Supported.

Mr. Warren: I understood Mr. Weadock that the committee would, at a later date, furnish a memorial upon all those who had died, and I desired my motion to cover it all.

The President: If I may be permitted, I would suggest that the motion include that it be spread upon the records of the Supreme Court.

Mr. Weadock: That has already been done in the Supreme Court.

The question being put, the motion prevailed.

The President: Now, gentlemen, I will not take up any more committee reports. I have one or two announcements to make before we adjourn. Those of you who were not present yesterday will find upon the front table a number of copies of the proceedings of John Marshall Day, and can secure them; at least, you may until the supply becomes exhausted. I also desire to announce to those who were not here yesterday that this Association is entitled to name three representatives to the American Bar Association, which holds its next meeting at Hot Springs, Va., on August 26, 27 and 28. If there are gentlemen present who intend going to the next meeting of the American Bar Association, if they will leave their names with the Secretary, the incoming President will be pleased to consider them in making his selection.

I only hope that the Committee on the Revision of By-Laws will suggest some plan whereby the county bars of the state may likewise send delegates to this body, in order that we may keep in touch with them. I know of nothing further to be disposed of this morning and a motion to adjourn is in order.

Mr. Pringle: I suggest that it is usual at this time to appoint a committee to recommend officers for the ensuing year, and I move that such committee be appointed.

Mr. Weadock: I support the motion.

The question being put, the motion prevailed.

The President: I will make the appointments during the noon recess, and announce them upon the opening of the meeting.

There is also to be an Auditing Committee appointed, to whom the Treasurer's report is to be referred. I will appoint upon that committee Judge Shepard and Mr. Weadock.

Mr. Weadock: I hope the chairman will excuse me; it will not be possible for me to attend to it.

The President: I will appoint Mr. F. S. Pratt in Mr. Weadock's place to act with Mr. Shepard.

Motion to adjourn until 2:30 p. m. was adopted.

AFTERNOON SESSION.

Meeting called to order by the President at 2:30 p. m.

The President: The Association will kindly come to order. I appoint as a Nominating Committee, Judge Peck, of Jackson, Judge Cahill, of Lansing, Mr. C. W. Perry, of Clare, Judge Shepard, of Bay, and Mr. January, of Detroit.

I will say that the custom heretofore observed in the proceeding of the Association has been to permit, aside from the nominations the committee may bring in, nominations to be made from the floor. After Mr. Russell's address and the discussion that follows the committee may retire and bring in their nominations.

Now, gentlemen, the next address is by the Nestor of the Detroit bar, our "Grand Old Man," whom we all love and respect, the Hon. Alfred Russell, of Detroit.

(See appendix for paper on Three Constitutional Questions decided by the Federal Supreme Court during the last four months. Hon. Alfred Russell, of Detroit.)

The President—Gentlemen, the subject of Mr. Russell's address is now open for discussion.

Mr. Straker: Mr. Chairman and Gentlemen of the State Bar Association—I beg that you will accept my apology for intruding upon this discussion at the very early stage at which I have assumed to do so. My reason for this seeming immodesty is this, that the second division of the subjects which have been discussed by our esteemed member of this city, the "Nestor," as we call him, "of the bar," and very properly so called by the President, and justifiably because of his pleasing manners, which have been familiar to us all for so many years.

He will pardon me when I take issue with him in reference to his conclusion

concerning the second division of his subject, relating to the decision of the Supreme Court in the Harris case. You may want to know, perhaps, why I want to say anything about it; but when you look in my face you see I am germain to the subject. (Applause.)

This decision, as it has been rendered, is of momentous consequence to a class of citizens in this country. No less far-reaching than kindred decisions which have been rendered, but nevertheless, through an all-wise Providence the prevailing power of justice has always culminated in right.

Mr. Russell said that he agreed with Justice Holmes that the subject ought to have been dismissed because the jurisdiction was brought along a line of equitable averments, and not those of the common law. Now, I desire to say that I presume that equity jurisdiction is one of the divisions of jurisdiction of the Supreme Court, and therefore if the subject be discussed at all it ought to be discussed along the lines of the United States Court Averments. I further presume if this authority is admissable of the citizenship of the colored man, then whether it was of equity or law jurisdiction, it ought not to be determined upon that alone. I feel that it is strange that during a period of perhaps nearly one hundred years three distinct crises, so to speak, have arisen in which the question of the citizenship of the black race of people in the United States have come up, and in each case the Supreme Court has, I will say with great respect, evaded the main issue and gone off upon something that was collateral; and I think that the question in the Harris case was avoided because the question was simply this, whether the revised constitution of Alabama, like the revised constitutions of Mississippi and Louisiana, which seeks to abridge the rights and privileges and immunities of any citizen, be he white or black, was constitutional. His citizenship was admitted, and because of his right as a United States citizen he brought himself within the jurisdiction of the United States, if those rights were relied upon. You will remember, gentlemen of the bar, that when that time came with reference to the Dred Scott case before the war, that Judge Taney, in that decision evaded that question by a figure of rhetoric, i. e., that Dred Scott was property under the light of history. That was the language of that decision. Not that the thing was right, but that a slave was not to be discussed upon the basis of whether or not he was a citizen. It was caveled with. Was it a case of whether or not he was a subject in the light of history or under the laws and manner under which he had been bought and traded? I say it was an evasion.

The next time it came up was in the famous Slaughterhouse case; that you

will remember as a case in which some citizens of Louisiana brought a bill before the Supreme Court to determine their rights under the legislative act of March, 1808, giving to certain citizens exclusive right to maintain slaughter-houses and landings for cattle. The question came up there, and I believe it was the first case in which the fourteenth amendment was attempted to be considered by the Supreme Court of the United States. Then again the Supreme Court of the United States dodged the question by declaring that that power was given to the state constitutions along the line of public policy. The question was not decided fairly. Mr. Justice Field, if you will remember, delivered a dissenting opinion. I will not take up much of your time, except to say that I believe that the time has come when our courts of last resort of the state, and especially the Supreme Court of the United States—that court that has co-ordinate jurisdiction—should meet these questions fairly. I say the time has come when they should decide the question in the light of human liberty instead of commerce. Now, my idea of the federal constitution and the manner in which it ought to be construed is this: The federal constitution is like a well-planted tree, its branches no less than its roots growing and spreading, while the tree as an entity remains undisturbed. That seems to me would be a good plan of construction of the constitution, in sap and bark; not construing it by letter but considering it in spirit. Not, as Chief Justice Taney did, in the light of history. I will ask the gentlemen and brethren at the bar if the fourteenth amendment to the constitution is to be construed in the light of history, or more strictly in the light of the conditions at the time when it was enacted? And especially as to the inviolable right, access to the ballot? Why should it strike the colored man who came from the same country from which I came, in some mysterious manner? Will we have to look to some other way than to the present courts for relief?

Citizenship is given under the amendment to the constitution; there is the ballot accompanying citizenship, and the Negro desires to enjoy the liberties and privileges accorded to him by the constitution. The reason I have spoken of it here is because I know of the eminent legal talent that sits in my presence and I desire to get the benefit of it. I desire to know whether when I become a citizen of a state I become a citizen of the United States; whether there is any such thing as nationality. Can state citizenship be put above United States government, and should the question be dodged for public policy or some other reason? I ask the question of you members of the bar of Michigan. States rights as enumerated by the Calhoun doctrine stand there today, and have the

states such enlarged powers that the United States government cannot intrench upon them? The question is continually presented, have the states got this excessive power and the United States no control over the same?

In the famous Slaughterhouse case, Justice Field says this in giving construction to the thirteenth, fourteenth and fifteenth amendments to the constitution: "The fundamental rights, privileges and immunities which belong to a citizen belonged to him before emancipation as a free man. Since emancipation the Negro, being a citizen, they belonged to him as a free man, and a citizen of the United States under the fourteenth amendment did not depend upon his father or citizenship of any state. They didn't derive their existence from its legislature and can not be destroyed by its power. The privileges and immunities of citizens of the United States, of every one of them, is secured against abridgment in any form by any state. In giving construction to the thirteenth, fourteenth and fifteenth amendments of the constitution and their purpose, as relating to the African race, these views should be kept foremost."

That is what I want to call the attention of my brethren to and ask them whether or not they agree with him or not in construing the fourteenth amendment to the constitution, which says that no state shall make or enforce any law which shall abridge the privileges or immunities of a citizen. I ask whether or not when that right is to be exercised whether it ought not to be exercised in view of the fact that it related to the African race? These rights do not depend upon historical divisions nor parental ownership. Yet the revised constitution of Alabama declares that no citizen whose grandfather in 1811 could not write shall himself have a right to vote. Now, what was the object of that language? They well knew that the grandfathers of the slaves in 1861 could not read or write. Was that not a mere evasion? And since the Supreme Court of the United States used the expression that in as much as the petition in the Harris case raised the averment of rights, was it not in their power then and there to have determined that it had jurisdiction to determine the question?

Further on, says Justice Field's decision, the fundamental right, privileges and immunities which belong to a citizen belonged to him before emancipation as a free man, and since emancipation, the Negro being a citizen, they belonged to him as a free man. That those rights which they declared belonged to a citizen belonged to him because he was a free man; and since that time that question has been settled. Your law settled it; the amendments have settled it. There is no question about his being a free man, he is a citizen; by right and by

reason he is a free man. If he is a citizen he is entitled to the rights of a free man, and it seems to me that it is always an evasion when those rights are not clearly assigned. Since emancipation the Negro, being a citizen, they belonged to him as a free man, says Justice Fields, and as a citizen of the United States, and under the fourteenth amendment, and it don't depend upon his being a citizen of any state. I know this much, that this question of citizenship was not decided in the Slaughterhouse case nor in the Harris case.

Do state rights supercede the rights under the federal constitution? They do not derive their existence from the legislature and can not be destroyed by it. The privileges and immunities of citizens of the United States, every one of them, are secured against abridgment in any way by any state.

Now, I have taken up longer time than I had intended, and I appreciate my privilege. I have no right to speak, in the first instance, amidst such legal talent, but I assume to speak as a colored man, as a member of the bar, who is glad to have been granted every privilege here in this great state of Michigan in which I live, and I take this opportunity here, without false modesty, to say that in the lowest to the highest courts I have enjoyed alike that freedom and liberty that has given me strength to come here.

Allow me to present my thanks to you. (Applause.)

The President: I would like to hear from some other gentleman on this subject.

SEYMOUR D. THOMPSON (speaking by invitation), said: Mr. President and Gentlemen of the Bar Association of the State of Michigan: I regret that I was late in getting here after lunch. I regret that I heard only a part of Mr. Russell's address, and failed to hear that part relating to the decision of the Supreme Court of the United States in the Lottery Ticket case. I am not prepared to discuss that case or to say anything upon it. I reviewed the opinion of Mr. Justice Harlan and the dissenting opinion referred to, in the American Law Review, for what that may be worth. I thought that the decision was right. I will say nothing more on that subject.

With regard to the Alabama Electoral case, that is a very large question. The opinion of Mr. Justice Holmes was not satisfying to me, and I doubt whether it will enhance his reputation as a clear thinker. I confess that I scarcely understood the dissenting opinions. I am, therefore, in a position to do no more than to offer one or two general suggestions.

The difficulty of settling political rights,—mere political rights—by suits in equity, is very great,—so great that it cannot possibly be surmounted. I sympathize with almost every word which the learned gentleman who just spoke said in behalf of his race. I know something about that race. I know their fidelity; I know the fidelity with which they protected the wives and children

of their old masters in the South—(Applause)—when all the able-bodied men had gone to the war. I know the fidelity with which they stood by the Flag when once they had cast their lot with the Union and had enlisted, and there were more than 110,000 of those men that remained on our muster rolls at the close of the war. I know the feeling of absolute safety with which the white officers of the colored regiments slept in their tents without fear of treachery on the part of their men. I know the feeling of those officers that, as long as they stood up and did their duty the colored soldier would stand by them.

I remember the disastrous battle of Guntown or Tupelo, when General Sturgis, who commanded the Federal expedition, distrusting his colored troops, kept them back, until he was obliged to put them forward and to throw them between his routed army and the victorious enemy. On the third day after that disaster I was officer of the guard at one of the sally-ports of Port Pickering, the great fortification which constituted the Federal defense of Memphis. Early in the morning stragglers began to come in on horse-back with news of the disaster; cavalry-men without commanders; artillery-men who had cut the traces and detached the horses from the guns or caissons; infantry-men who had cut horses from baggage wagons and mounted them to save their own miserable carcasses; all white men, all of them without arms, some without coats, and others even without hats,—reporting the terrible disaster, the army all cut to pieces and General Sturgis killed. All day long this stream of miserable fugitives kept pouring in, until, about six o'clock in the evening, two battalions of the 55th colored infantry came marching in covering the retreat, their drums beating, their colors flying, in full and correct alignment, and every black man carrying his gun. One battalion of that regiment got detached from the rest. It was commanded by a very dear personal friend of mine, long since deceased, Major A. T. Reeve. It had been detached to hold a position where, unknown to its commander, the main body of the retreating army had marched away from it. In its attempt to join the retreat it was obliged to march almost into the fire of the pursuing enemy. It covered the retreat if ever a retreat was covered. It kept up a running fight with the pursuing enemy for three days, mostly with ammunition obtained from cartridge boxes thrown away by the troops which had preceded it in the rout. Subsequently I was Judge Advocate of a court-martial before which some testimony was adduced concerning the details of that battle and the conduct of that regiment. That testimony was to the effect that every man save one of the 55th colored regiment that was not known to have been either killed or severely wounded came in and joined his colors; and that one, captured and returned to slavery, escaped, travelled several hundred miles through the woods, and joined his colors in the following February. So

that every man of that regiment, not known to have been killed or severely wounded, ultimately joined his colors.

I remember, and you remember, the story of the black troops at the battle of San Juan Hill in our late war with Spain; how when a New York regiment could not be induced to go forward to the attack, a regiment of dismounted colored cavalry belonging to the regular army marched over the heads of the white men as they lay on the ground, and advanced to the assault of the Spanish position.

It is the sons and brothers of those men that are being disfranchised all over the South. The men who thus assisted with their blood in preserving the integrity of the Union, and who in the late war with Spain assisted in advancing the Flag to victory and glory are denied the primary right of citizenship, although the Constitution of their country declares that they are citizens. Such is their reward:

> "Sowing, but never reaping;
> Building, but never sitting in the shade
> Of the tall mansion they have made."

We are told that although their right to vote is, under the Constitution of their country, a Federal right—and certainly it is a Federal right so far as voting for Federal officers is concerned,—yet there is no remedy in the courts of their country for a deprivation of that right. It may be that there is no remedy; if so, so much the worse for the courts of their country. (Applause.)

I know that it is a political question. I sympathize with the efforts of our white brethren in the South to grapple with it and to solve it. The effort to carry on sound and wholesome civil government with such a constituency as the black voters, taken as a mass, has been for them an overwhelming problem. The North tried to solve it for them and failed; and the people of the North have now concluded to let the people of the South have a free hand in dealing with it, and to solve it for themselves as best they can.*

I realize the difficulty which the judicial courts encounter when they attempt to grapple with political questions. Chief Justice Taney and those who concurred with him attempted to settle the slavery question by a judicial decision, but they succeeded in settling nothing except the fact of their own imbecility and inconsequentiality. (Applause.) It was a great political question; the whole Union was excited over it; discussion had gone too far; there was only one way, human nature being what it is, in which it could be settled, and that was on the field of battle, amid thunder and fire and earthquake, the rattle of musketry, the shouting of the captains, the long blue line swinging against the long gray line.

*This paragraph was not in the speech as delivered, but was added by the speaker in reading the proof.

Considering the way the question was presented, I am not prepared to offer criticism upon this particular decision. I am not sure that the right to vote can be the subject of any protection in equity. The right to vote has been regarded as property; the elective franchise has been held to be property; equity seeks to protect property. But this is a political property, a property involving merely political rights; and I am not prepared to face you as a lawyer and to say that the court was wrong in holding that this right could not be protected by an injunction, in the absence of action on the part of the political department of the government.

As I remember the decision, there was this further inherent difficulty in granting relief to the complainant, considering the way the question was presented: The plaintiff wanted to be reinstated in his right to vote under a statute which he himself declared to be void. He went to the Federal court to establish his right to register and to vote under what he declared to be a void law. It, therefore, seems to me that the difficulties attending the granting of the relief which he sought were very great, if not insurmountable. Gentlemen, I thank you for your attention.

Mr. Weadock: I desire to say just a few words with reference to the oft-repeated statement in regard to Judge Taney and the Dred Scott decision. In the first place, the Dred Scott decision was made under the conditions and the laws of the time; they were not made under the laws of today. In the second place, the judge's decision in the Dred Scott case was that Dred Scott was not a citizen. There is not any question whatever in the mind of any lawyer who has read that decision but that that was a historical and legal fact. Now, the question that we had a war, the fact that we had a constitutional amendment, the fact that the Supreme Court decided that question differently at a later day, does not militate at all against the Dred Scott decision, and if the Supreme Court of the United States in making that decision was endeavoring really to preserve the Union, they were doing just what Scott and Daniel Webster did in 1855, and what Lincoln was willing to do in 1861, and what was in the hearts of very many patriotic and well-informed citizens of the United States.

In this one thing I desire to differ with my friend Straker, that the Dred Scott case was disposed of by a figure of rhetoric. It was nothing of the sort. Just as Justice Taney said, up to that time the Negro had been treated as a person having no rights that a white man was bound to respect. That was absolutely the historical truth, and he didn't state it as his opinion, he didn't state it as the opinion of the court. He said that as a historical fact, and it had always been recognized as right, they had been bought and sold. Washington had owned them and sold them, Jefferson had owned them and sold them, and all the great and good men who had lived in that part of the country had

yielded to the institution of slavery. In Massachusetts the people had owned them, and it existed here in the State of Michigan.

Now, after this great war has come to an end, after those questions have been settled by resort to force, and never settled in a constitutional way at all, we are going back into the history of the country and bringing these questions up again. Some of the southern constitutions have been framed upon the constitutions of the northern states. The misfortune is that the national constitution or the constitutions of any of the states contained the word black race. It was the intention of many of them that certain constitutional amendments would be adopted to amend them if they could close out certain objections. Some of the severest criticism that was leveled in the courts of the United States against the constitution of Massachusetts under the recent constitution by men from Massachusetts was made by comparison of the new constitution of Mississippi with the old constitution of Massachusetts, showing that the provision that those men were advocating in one state existed in the constitution of their own state.

I think suffrage is made too cheap in this country. I think that every man that has a right to vote should at least be a payer of taxes; he should have some interest either in property or otherwise. I never could see any argument when they undertake to put the constitution of the United States as authority for a citizen of the United States. Where does he belong? Where does he vote? If there was a citizen of the United States it would be in the capital of the country, in the District of Columbia. The citizen of the United States is a citizen of some particular state. He is a citizen of Michigan, of Ohio, of Illinois or Alabama. He is a citizen of a state, and therefore a citizen of the United States. He is a citizen, a person of his own state, not of any other state.

In discussing matters of this sort we are apt to let our feelings run away with us. We should deal with these questions as lawyers, not deal with them in a political sense. The voting right is a political right. Why should we deny young men of 20 years and 6 months that right to vote when we give them that right when they are 21? If a state has a right to impose conditions it has a right to impose what those conditions shall be. The states make their own requirements, not the United States. The citizens made the constitution of the United States, not the United States the citizen. Discuss it as long as you may, you can't get away from that fact, that citizens of the United States are such because they are citizens of this or that state. Slavery was abolished as the result of the war and banished from every state south as well as north and middle, and it is for the local citizens of the states to establish the requirements of those that should vote and the capacity of those that should vote; that is determined by the state, and if the Negro in a state can't comply with

the same regulations that the white man complies with, should he be permitted to vote? Until he does that he is not. In that fact the South don't go much further than they do in the North. There does not seem to be any difference of opinion between the people upon the question of white supremacy in the south; they are good enough if they are in the north. As long as ignorance is a bar, and as long as the question of property is a bar to suffrage in any state, these men must deal with that question, and meet it as best they may, and endeavor to bring themselves within the legal requirements. You can't vote in the state of Rhode Island to-day unless you own real estate. If that law has been changed, it has been changed very recently. When they say they are unjustly and unfairly treated they come up against a wall; and I think the decisions of the Supreme Court of the United States are right, and I shall be very glad to see the colored people in the South, and the colored people everywhere so improve their material and moral conditions, their mental faculties and industry as to meet the requirements that have been made in the states, and learn to be able to convince their fellow citizens that an unjust discrimination has been made against them. The laws for the colored people in the state of Massachusetts is the same as for the white man, and has been so for a hundred years, and the position of the negro in Massachusetts is practically the same as it was one hundred years ago. Now, there must be some great fundamental racial reason for these things, and it can not be remedied by denunciation, but it must be met by the people themselves in meeting the requirements instead of maintaining they have the same rights as others. It can not be done until they do.

Mr. Straker: Before you take your seat, will you be kind enough to tell me so that I can tell others of my race how we shall meet the grandfather clause in the constitution. Probably it is possible for us, but I am somewhat in a mystery about it.

Mr. Weadock: By convincing your fellow citizens that you can do as well as the white citizens, by working six days in the week and saving enough to keep you the other day of the week, by obeying the law, by asserting rights to property, by doing just what the white man does, and until you do that you will not get the white man's privileges.

Mr. Straker:—

At this point upon a signal from the President, the band struck up "The Star Spangled Banner."

Mr. Patterson, of Marshall: We must remember that we have had some very marked changes in our government during the last few years; that the constitution of the United States to-day is not the constitution that we had at the time of the Dred Scott decision. We must remember that the constitution

has declared the colored man a citizen by the decree of the people, ratified and confirmed. We must remember that right of suffrage has been given to the colored man. We must also remember that state rights are not as far-reaching today, as they were before the fourteenth amendment to the constitution. The states were forever forbidden from depriving man of his life, liberty or property without due process of law. Now, gentlemen, these are important rights, and I think that they are judicial questions, or questions that should be decided by the judiciary. If a man has a federal right under the Constitution, if he would be governed by law, how are those rights to be determined, and how are those rights to be enforced unless they are determined by the judiciary and enforced by the decrees or process of the courts? And if these federal rights are not enforced by the courts they never will be enforced. I contend that they are judicial questions; they are questions proper for the judiciary to determine and proper to be enforced by the process of the courts, and if these federal rights are not to be declared and enforced by the federal courts, we can not have them enforced by law. (Applause.)

Mr. Barkworth: As is well known by all my associates for six months after election I am out of politics, and although there seems to be some tinge of politics in the discussion, I would like to ask either of these three gentlemen to whom I have listened, the legal effect of this decision particularly as it interests the Michigan bar. The authority assumed by equity jurisdiction over the voting power of its citizens, and I would like to ask my distinguished friend, Mr. Russell, wherein the case in question differs in principle from the ordinary cases which are taken cognizance of by our Supreme Court, and in which the equity process is used to correct abuses of franchises? I believe that where ever there is an obstruction there is a way, that the court in equity has assigned a proper tribunal for the correction of that ill. In the second place I would like to ask the distinguished gentleman also if he has studied the case, and therefore has an opinion, whether or not there is anything in the record of the case which makes the first case that he told us of distinguishable from the case in which our own Supreme Court has held that the power to regulate does not carry with it a power to prohibit. Those are questions which are entirely apart from any political tendencies, that we may discuss with perfect propriety. Our own Supreme Court have held that the power to prohibit is differentiated from the power to regulate, and that the latter does not combine the former. How does that case differ from the case decided by our own Supreme Court?

The President: I regret indeed that Mr. Hyde, the chairman of the membership committee is not with us to-day. Our secretary, Mr. Landman, I believe is prepared to make a brief report in his behalf.

REPORT OF COMMITTEE ON MEMBERSHIP.

Wm. J. Landman, member of committee: I am a member of the membership committee, of which Mr. Hyde is the chairman. Perhaps in this connection, in making this oral report, it might be well to state something about the condition and standing of members, and the difficulties we have had to overcome in regard to the difficult manner of electing persons to membership. A year or more ago the members of the association were admitted by action of the board of directors. It was found to be a very difficult matter to get the board of directors together to act upon the applications. Last year a rule was adopted by which a membership committee was appointed. This membership committee acts upon the applications as they come in during the year, and each application receives the attention of each member of the committee. This plan has worked very favorably.

We have admitted during the past year 73 members. Thirty-four members have dropped out, from death and one cause or another, and we have a net membership at this time of 613.

While speaking on this subject of membership I might state that previous to the last two years there had been a great deal of difficulty in regard to the matter of dues. The dues are very small, one dollar a year, and they often slip the minds of the members; and in the year preceding last year the secretary collected some $19 in annual dues for the entire year. Previous to that, amounts larger than that have been collected; but for several years previous to the last two years there has been a great deal of difficulty in collecting dues. Learning that there was over $500 of annual dues uncollected I went to work to straighten the matter out so that no member would feel offended at all. And I think it proper on behalf of the committee at this time to make a motion that all past dues that have not been collected be cancelled. I make this motion because in the past two years a special effort has been made to collect back dues; and therefore I move that all dues for and previous to the Association year 1900-01, that have not been collected up to date, be cancelled.

The question being put, the motion prevailed.

The President: What is your desire with regard to the report of the committee?

Mr. Barkworth: I move the report of the committee be accepted. Motion supported.

The question being put, the motion prevailed.

The President: The committee (of which Judge Peck was a member) the nominating committee, will please retire to the room in the rear and deliberate upon their selections. I desire at this stage of the proceedings to say this: Our Secretary has done splendid work on behalf of the Association. Our by laws do not provide any compensation for him. At last year's meeting the Association voted him $100.00 for his services during the previous year. This, in my judgment, is not adequate compensation for the labors of the Secretary. I believe it to be true economy to make a reasonable provision for the Secretary, as the effectiveness of his work depends in a large measure upon the time and energy he can devote to the duties of his office. I shall be pleased to have a motion made for an allowance to him of an increased salary for the past year's work.

Judge Moore: I move you, Mr. President, that the Secretary be allowed $200.00 for the year past.

The question being put, the motion prevailed.

The President: While the Committee on Nomination is out there are other important matters to come before the association. I trust you will remain with us and give us your attention. The first will be the report of the Committee on Revision of By-Laws. I will state that the chairman of the committee has been obliged to go home and has left the matter with Mr. E. T. Berger, a member of the committee, and Mr. Berger is ready to report.

REPORT OF COMMITTEE ON REVISION OF CONSTITUTION AND BY-LAWS.

Mr. Berger: Mr. President, and Gentlemen of the State Bar Association:—The Committee find, based upon the report of the outgoing president of last year, a great number of suggestions were offered for the betterment of the by-laws and the constitution to enable the work of the organization to progress more smoothly; and for that purpose we went over the by-laws and constitution very thoroughly, and we have here to-day to present to you some amendments which we desire to offer for your deliberation and discussion. Of course, these amendments are only those that appear to us as being feasible, and we offer them in the hope that they may meet with your approval.

Now, it appears that we have a board of directors. That board of directors is composed of members who are elected by the association, and who are supposed to come from outlying districts of the state, and also of the four officers of the association. It is very difficult to get this board of directors together at certain times. As I believe a number of efforts have been made during the last year to get a quorum of the board of directors together, in order to arrange for this meeting and to arrange for other matters to come before them, and in no case have they been successful in so doing. So this committee for the purpose of meeting this objection has arrived at the idea of organizing a so-called executive committee, and we have amended the first article of the by-laws in this way:

AMENDMENT TO ARTICLE 1. OF THE BY-LAWS.

There shall be four (4) standing Committees of the Association, as follows:

1.—Executive Committee.

2.—Legislation and Law Reform.

3.—Legal Education and Admission to the Bar.

4.—Grievances.

1. The first committee shall consist of three members, to be appointed from the place where the annual meeting of the Association is to be held, and each of the remaining three committees (Legislation and Law Reform, Legal Education and Admission to the Bar, Grievances), shall consist of five members, and shall be appointed by the President.

1. Executive Committee—It shall be the duty of this Committee in conjunction with the President, to have the general charge of the affairs of the Association. They shall meet from time to time as it may be deemed necessary by the Chairman, to determine upon the policy of the Association; the programme for its annual convention; the arrangements for said convention, and to prepare and submit at the meetings of the Association, resolutions and suggestions relative to the general welfare of the Association. This Committee shall have such general powers and duties as is now possessed by the Board of Directors, but shall be entitled to assume the duties of the Board of Directors only when such Board has failed to meet and take any action.

I think we will make more rapid progress if we take each of these amendments up separately.

The President: What is your pleasure in regard to this amendment?

will say in regard to that connection that there has been great difficulty in getting together the board of directors, as they come from all the various Congressional Districts, many miles apart. For some season or other you can't get them together, so that the responsibility rests upon the President to make all arrangements for the convention, and that responsibility ought in my judgment to be placed upon the shoulders of a committee of three who live at the place where the next convention is to be held. We may retain the original board, but we must have an active body to do effective work.

Mr. Landman: I move a support of the amendment as stated.

Motion stated by the President.

Mr. Pratt: If I recollect rightly at the last annual meeting we amended that section of the constitution to provide for a committee on membership. Now, if my recollection is right, this committee has evidently done its work. If that is so, that is out of the way.

The President: There is no disposition to do away with the membership committee. This has reference only to establishing an executive committee who shall act in conjunction with the president.

Mr. Pratt: Does not that amendment as stated by the chairman of the committee read that there are to be four committees, and does not the membership committee appear among the number of present committees?

Mr. Berger: No, it does not appear among the committees, and it is to be made one of the standing committees.

The President: The motion is upon the question as stated. All those in favor of it signify it by saying Aye.

Mr. Sagendorf: We can't vote intelligently unless we know whether that is included in this. I move to amend by adding the membership committee to that, then we will vote upon it.

Mr. Pratt: I second that motion, Mr. Chairman.

The President: It is moved to amend the original motion by adding the membership committee as one of the standing committees.

The question being put, the motion prevailed.

The President: Now, the motion as amended is, that this section be added (the section that has been read) together with the addition of the membership committee as one of the standing committees.

The question being put, the motion prevailed.

Mr. Berger: The next amendment we desire to suggest is an amendment to the constitution amending article three, which reads as follows:

"The annual dues shall be $1.00, payable to the Treasurer at the annual meeting, or within two months thereafter." The proposed amendment is: "The annual dues shall be $1.00, payable at the time of admission to membership and annually thereafter. Members in arrears shall be expelled from the Association by a majority vote of the Board of Directors. Upon satisfactory explanation of

default in payment of dues, the Board of Directors may reinstate any member."

Heretofore the payment of dues has been at the convention. All of its members do not attend the convention, therefore we suggest that the time for payment of dues be changed to the time the member is admitted to the Association and annually thereafter.

Mr. Davis, of Saginaw: It seems to me that instead of having it drag clear through the year, dependent upon when the member would be accepted by the committee, you better have some fixed time for payment.

Mr. Berger: The amendment says the annual dues shall be payable at the time of the admission to membership.

Mr. Ronald Kelly: If the committee gets together, say in September, the member should not be expelled within a year for non-payment of dues. We think that would be a better plan in as much as the amount is so small and slips the minds of the members, and he really ought not to be expelled for such a small reason. We think that would be more practicable.

Judge Cahill: Suppose a man wishes to join the association three months from to-day, who admits him?

Mr. Landman: The membership committee has power to receive the application and act upon it.

Judge Cahill: When does he pay his dues then?

Mr. Landman: As soon as the membership committee has acted upon his application.

Judge Cahill: Then his year begins at the time he becomes a member?

Mr. Landman: Yes.

Judge Cahill: Then suppose another member joins two days after that one joins, do I understand the day he joins the membership fee becomes due? Isn't that putting a good deal of labor upon the man who receives those dues? Supposing a man joins every day in the year, the dues become due at the Secretary's office; the year begins with every member on the day he joins.

Mr. Berger: Before the dues became payable at convention time. Now we amend to make them due at the time and a year from the day he joins.

Judge Cahill: It seems to me that is almost a picayune way of doing business, because there is no particular time dues generally become due. I have never tried it, and should never attempt to try it, but I should think it would be a difficult matter for the secretary to collect dues falling due from members every day. A stated time when all dues fall due would be very much preferable in my opinion.

The President: The first payment should be made upon admission to the Association to be applied upon the current year.

Judge Cahill: I suggest an amendment that the time the dues shall become due shall be at the end of the year.

The President: I don't believe it has been determined which end of the year that payment should become due.

Mr. Landman: I suggest the first day of January be the time upon which the payment falls due for the year, if that would be satisfactory. As I remember the motion it is for the coming year.

Mr. Hall: Is that payment for the year that is past or for the following year?

The President: It is in advance. We pay in advance and therefore it falls due in advance.

Mr. Patterson: If a man joins in July he pays for a year from the following January, he is not paying in advance.

The President: He pays for the year in which he joins. The motion now as amended is that the time of payment be fixed as January first.

Mr. Patterson: I think we can do better than that. I think if you make the initiation fee of $1.00 that covers the remainder of the fiscal year, then the dues become due the first of January.

The President: We have nearly 2,800 members of the bar in this state, and we have only got about one-quarter of them in this association. I am very hopeful that we will get at least one-half by another year. We don't want to put any stumbling blocks in their way by placing them in any different position from those already in.

Mr. Patterson: You would not place them in a different position by wording it differently.

The President: I would suggest that you put your suggestion in the form of a motion so that it may be acted upon.

Mr. Patterson: I would move that instead of the initiation fee of one

The President: Is that amendment accepted?

Mr. Berger: Yes, we consent that take the place of the one we made.

Judge Cahill: I gather from something I heard that there is some misunderstanding. Is it designed to make the time when the payment is to be made after the entrance money, the beginning of our fiscal year?

The President: I take it if a member enters now he pays the membership fee of $1.00 for the following year.

Judge Cahill: That is, from January to the next January?

The question being put, the motion as amended prevailed.

President Sloman: We have some important matters following the report of the committee on nomination, which I think not only affect the welfare of the association and its prosperity, but upon which this association ought to talk in no uncertain tone.

Mr. Berger: The next amendment is to Section one, Article three, of the Constitution, which reads as follows:

"Members of the Bar of Michigan in good standing and authorized to practice in the courts of the State of Michigan, Judges of the Supreme and Circuit Courts of the State, and Justices of the United States Circuit and District Courts of Michigan, may become members of this Association."

That does not apply to Probate Judges and minor Judges throughout the State who may be members of the bar also. It is a well known fact that the members of the Supreme and Circuit Courts are also members of the bar. So, to enumerate it specifically we deemed it unnecessary inasmuch as the members of the bar included them. So we have amended it as follows: "Members of the Bar of Michigan in good standing authorized to practice in the Courts of Michigan, and Judges of the United State Circuit and District Courts of Michigan, may become members of the Association." We move its adoption.

Mr. Landman: I second that motion.

The President: It is moved and supported that this amendment as read be adopted. Are you ready for the question?

The question being put, the motion prevailed.

Mr. Berger: The next amendment we do not suggest for any personal reasons, for the speaker is not acquainted personally with any of the Treasurers, or any of those whom he anticipates may be elected, but it is merely customary in kindred associations. The suggestion is that section four be amended by inserting the following clause with reference to the Treasurer:

"The Treasurer shall also be required to furnish a bond in such amount as the Board of Directors shall direct."

The President: What is your pleasure in regard to that amendment?

Mr. Patterson: I move it be adopted.

The motion being stated and put, the amendment prevailed.

Mr. Berger: Now, in the event of this Association adjourning at any time without having definitely determined upon a place of meeting, we have decided to recommend to the Association as follows, by adding an article upon meeting:

"The association shall at each convention determine the place of meeting for the next year, and in event of a failure to do so, such place of meeting may be determined by the Board of Directors."

The President: What is your pleasure in regard to that amendment? We have never been able to get the Board of Directors together. The amendment calls for "The Board of Directors." I desire to say that in defining the duties of the executive committee it is stated that whenever the Board of Directors shall fail to exercise their powers the executive committee may assume their powers and do whatever work they have left undone.

The motion being put, the amendment was adopted.

Mr. Berger: In the by-laws, section three, there is no provision that if

any case brought in any court for any other reason, against any member of the Bar Association, he may be expelled from the Association. I will read the article:

"It shall be the duty of the committee—the committee on grievances—to receive and investigate all charges of misconduct justifying suspension, or disbarment, which may be made to it by responsible parties against any attorney of the state. If, upon investigation, probable cause to believe the charges to be true is found to exist, the committee shall cause proceedings to be taken to procure the disbarment of such attorney." Now, that only provides for disbarment from the bar of the state. Now, if it is thought that such a member whose conduct requires such action should not be a member of this Association, we have added an amendment by which we would suggest that the word "expulsion" may be inserted, so that it may read as follows:

"If, upon investigation, probable cause to believe the charges to be true is found to exist, the committee shall cause proceedings to be taken to procure the disbarment of such attorney and his expulsion from the Association."

The question of adopting the amendment being put, the motion prevailed.

The President: The temporary chairman of the committee has called my attention to the fact that it was suggested to him that we make some provision whereby there should be some representation to this convention from the city and county bars.

Mr. Berger: I desire to present merely a skeleton of an amendment to the by-laws which we desire to have adopted:

"Resolved, That every City and County Bar Association in this state, having an independent organization, may be permitted to send to this association one duly accredited delegate for each County or City Bar Association, which may be represented here."

That is the idea; we will put it in proper wording. I move that such resolution be adopted.

Mr. Bates: It is moved that the amendment provide for the County and City Bar Associations, when accredited, to representation in the meetings of this Association. I support the motion.

Motion stated.

Mr. Sagendorf: It is moved that the whole be amended so as to make the number three instead of one. I think if it was not it would detract from the members present instead of adding to them. We have a bar association of eight or ten, I think, in our town. If a man was not elected as a delegate he would not go, and would it not detract from our membership instead of increasing it?

Mr. Bates: I think the effect would be the other way.

Mr. Davis: I think we did try that for two or three years in Saginaw, and it did have the same effect, that if we elected a delegation of two or three to go the others would not go.

The President: Were the members urged to go, as well as the delegates?

Mr. Davis: Yes, just the same.

Judge Cahill: Let me make a suggestion. Suppose at the opening of a session of the State Bar Association convention two or three appear as delegates from subordinate associations; that they are accredited from the County Bar to the State Bar Association. You receive them with very great pleasure and accord them all the courtesies that are usually accorded to delegates, you can see how things are done. They would be accredited delegates. Of course, this is not a political convention where the lines are drawn closely, it is a voluntary meeting of the State Bar Association, in friendly relations with all the subordinate bar associations of the state. If they send delegates to us as well as come themselves, is it necessary to say we will permit subordinate associations to send three delegates if you see fit to?

Mr. President: Mr. Cahill, the amendment has not been supported, so that it stands upon the amendment of three accredited representatives.

Mr. Cahill: I move an amendment to the amendment in the form it now is, that every member of a county bar association who attends the State Bar Association as a member thereof, shall be accredited as a delegate from the bar association, and that that bar association be requested to send at least three delegates to the State Bar Association.

Mr. Bates: I will accept that amendment.

Mr. Berger: Then every one at the convention is a delegate.

The President: The amendment now is to notify the various County and Bar Associations that each member coming to the State Bar Association shall be an accredited representative, and that they be requested to send at least three. Are you ready for the question?

Mr. Snyder: I can't see any object then of delegates at all. It only makes our meeting a kind of a convention and don't mean anything. Delegates are sent to vote. Another objection to it would be the matter of votes. Each delegate would be a member of the bar association; would he have a vote as delegate and again as a member of this association?

The President: No, he would stand in the same relation that a member of this association does in the American Bar Association.

Mr. Snyder: If the county association had a right to be represented here by votes, and if he is a delegate, he would have a right to vote as a delegate, then in addition, if he is a member of the Association he has a right to vote as a member of the Association. That would make two votes, one as a member of this Bar Association and another vote as a delegate to this Association.

Judge Cahill: You don't quite get my meaning. I was a member of the Committee on the Revision of the Constitution and By-Laws, and I put in the amendment providing that the county and state bars be privileged to send accredited representatives. What motions have been made?

The President: The original motion was for one, then amended to three; the last was not one, or three. The amendment contemplated that the associations be notified that each member of such association who shall attend this Association shall be accredited to that organization, and they should be invited to send at least three. The matter stands upon that last amendment.

Mr. Sagendorf: I can't see the necessity for this amendment at all, the last amendment. If I am a member of this Association and have a right to attend and have a right to be heard and vote, so I am here. As quick as you abridge those rights I am not here, and as quick as you ask any bar association to send certain of its members, three, they will undoubtedly do so, and the rest of them will not be there. Now, it may look smooth, but when you come to work it will work out just that way. Now, we have got a large bar, there are here eight or ten, I think, and if you ask us to send three we will send them and the rest will stay at home every time.

Mr. Warner, of Allegan: I move as a substitute for this question that each one of us of the State Bar Association endeavor, and use our best endeavors, as a committee of one, to secure members of the bar from our localities to join the State Bar Association.

The President: I should be inclined to rule that the substitute is hardly germane to the original motion and amendment. The motion before you is upon the substitute presented. I understand it provides that the Bar Associations of the counties and cities be requested to send three of their members to attend the meeting of the State Bar Association. Am I correct thus far?

Mr. Warren: The substitute was that each member of this State Bar Association use his best endeavors to induce at least one in his respective locality to join the State Bar Association.

The President: I presume that everybody will try to do that this year. Of course I don't want to delay the meeting by taking the time to put the substitute, but if you insist upon it I will put the substitute; if not, we will consider the substitute as being out of the way.

Mr. Pringle: I think that this is the first time that it has ever been hinted in a meeting of our State Association that there should be delegates instead of members attending from the localities where other associations are organized. We don't want delegates, we want members.

Mr. Sagendorf: That's right. I think that is what we need; hence, inasmuch as this seems to be the outside of anything that has heretofore been contemplated, and in as much as it seems to substitute something else for what we really want, I move to lay the motion with the amendment on the table. (Motion supported.)

The President: It is moved and supported that this motion for the adop-

tion of the amendment as a part of our by-laws, together with the amendment, be laid upon the table. Are you ready for the question?

The question being put, the motion prevailed.

Mr. Berger: This is the last suggestion we have. It was complained of by the preceding President to the one now presiding that there were no records kept of the previous meetings—and there have been quite a number of State Bar Association meetings—and that the earlier meetings are without any record; they have not the programs, they have not the minutes, there is absolutely nothing to go back to. In future years they will be very valuable and they are interesting. So we have incorporated this among the duties of the Secretary:

"The Secretary shall keep full and complete record of the annual conventions from time to time and arrange the same in such order that they may be bound and preserved."

That amendment we deem advisable.

Mr. Bates: I support the motion to amend as made by Mr. Berger.

The question being put, the motion prevailed.

The President: The committee to whom was referred the selection of nominees for officers of this Association for the following year will now report.

REPORT OF CHAIRMAN, COMMITTEE ON NOMINATION OF OFFICERS.

Mr. January: Your committee beg leave to report as nominees for officers of this Association for the next year as follows:

President—R. C. Ostrander, Lansing.

Vice-President—C. L. Collins, Bay City.

Secretary—W. J. Landman, Grand Rapids.

Treasurer—A. C. Denison, Grand Rapids.

Board of Directors—First District, Adolph Sloman, Detroit; Second District, C. E. Weaver, Adrian; Third District, Guy L. Chester, Hillsdale; Fourth District, R. R. Pealer, Three Rivers; Fifth District, F. D. M. Davis, Ionia; Sixth District, E. S. Lee, Flint; Seventh District, Dwight N. Lowell, Romeo; Eighth District, George W. Davis, Saginaw; Ninth District, William Carpenter, Muskeogn; Tenth District, Frank S. Pratt, Bay City; Eleventh District, Charles T. Russell, Mt. Pleasant; Twelfth District, B. J. Brown, Menominee.

The President: What is your pleasure about acting upon them, by ballot, or viva voce vote?

Mr. Cahill: I move the Secretary be instructed to cast the vote.

The President: Shall it be for each office respectively, or consider the nominations as a whole?

Mr. Cahill: As a whole.

The President: I would like to ask whether there are any nominations to be made from the floor in addition to those nominated by the committee? If there are not I will order the Secretary to cast a ballot for the officers named

in the report of the Nominating Committee. There being no objection, it is so ordered.

RESOLUTIONS.

Mr. January: Mr. President—This is a matter that possibly belongs to the Committee on Legislation and Law Reform. That committee has been exceedingly busy trying to get some measures through the Legislature with the aid of the Bar Association, and their action has succeeded in a measure. These matters were discussed and in drawing up our report Mr. Patterson and I omitted to put them in. One of the measures at least was emphasized by the President in his address, and some resolutions are suggested for the consideration of the body. The main question is on the subject of divorce. I move the adoption of the following:

"Whereas, The number of divorce suits in this state are increasing rapidly, and in as much as in a large majority the reports show that divorces are obtained; and

"Whereas, It is believed it is fast becoming a menace to the welfare of society and tends to undermine the sacredness of the home, which underlies the foundation of our civil government; and

"Whereas, We believe that through the co-operation of the bar great good can be done towards reforming this evil; it is therefore

"Resolved, That it be the sense of this body that we deprecate the indiscriminate granting of divorces, and we believe that lawyers owe a duty to their clients and that they advise divorce only as a last resort.

"Resolved Further, That the judges of this state ought to scrutinize closely divorce cases which are brought before them and in the event of granting a divorce it simply should be for a limited period rather than an absolute period, and should require the husband in the interim to make ample provision for the care and maintenance of those dependent upon him."

I desire to frame another clause, which I have since considered, and will ask your consideration: That this bar deprecate the idea, and particularly among the younger lawyers, of taking divorce cases. It is a known fact that a large number of young men coming to the bar have their first case as a divorce case; and I think a resolution should be offered discouraging that practice of younger members of the bar.

Mr. Lacey: What do you want? That you old fellows have them all?

The President: It is moved and supported, gentlemen, that the resolution as read by Mr. January be adopted as the sense of this Association.

Mr. Lacey: I notice that there is not a majority here, and I think it is rather taking the advantage of us young fellows.

The President: This resolution does not include the suggestion of Mr. January.

Mr. Burroughs: There are two conditions in that resolution I object to. The first is the denominating of the divorce law by the use of the adjective "evil." The second is limiting a decree. That is, if a divorce is granted upon any other than the statutory grounds that it makes it incumbent upon the Circuit judge to make that decree for only a limited time.

Now, I have had some practice in divorce cases, and I have yet been unable to find that divorce law under the statutes of this state or under the construction of our Supreme Court in reference to the statutory provisions providing upon which grounds a divorce may be obtained, that are detrimental or dangerous to society. I listened with a great deal of attention yesterday to, Mr. President, your worthy presentation of your paper upon that question, and when I learned from your statistics that there had been some thousands of marriages ensuing the number of divorces granted were only ten per cent——

The President: Over ten per cent.

Mr. Burroughs: Not to exceed twelve. Now, it would seem to many laymen and many business people who don't know what the law is that there was something rotten with reference to the procedure to obtain a divorce in the State of Michigan, for the reason that ministers from the pulpit are all the time criticizing the divorce laws and the results of suits resulting in divorces to the extent that large numbers of their congregations and people who are not connected with the bar and have not the knowledge of the law, are prone to find fault upon grounds where no grounds exist.

Now, I am not going to tire you long, not over five or ten minutes. If a man obtains a young wife during her tender age of 16 to 18 without the consent of the parents, by misleading the girl, by false pretenses as to being capable of providing for her through life with a home, with kindness and property rights to the extent that he is capable of supporting her as a husband should support a wife, and it turns out that he is nothing but a drunken loafer, or a gambler, and after he has lived with her for a month or a year he says he will leave her with her father and mother, and a little child upon her breast, they say, "Tie up to him through life, be his slave, cast out by society." I say that upon filing a bill, with proper process on the defendant, even personally served with a subpoena if he dwells anywhere where process can be obtained upon him, the Circuit judge has heard the case, in his discretion and wisdom he sees fit to separate those two persons and grant an absolute divorce, there is nothing wicked enough in your classical language, our statutory law, judicial law or biblical law to denominate that which would prevent him from doing it.

Now, I want to call your attention to just three quotations upon which the pulpit stands with reference to the laws on divorce. I agree with you, sir, and I agree with every member of this bar, that no divorce should be granted unless

the bill is framed with proper averments under the statute, and unless the proofs are absolutely sufficient to sustain them, and then a decree in equity should be granted.

I agree with all you gentlemen that young lawyers should not seek business in the way of procuring complainants to file bills for the fees in them. I don't want the public to get a false impression with reference to the divorce laws of Michigan.

Now, I will call your attention to the three things that we ask to have stricken from the resolution in full, because the public would misconstrue it, they would think we were doing something that was evil even in the worst cases that were equitable and justifiable. Then I would leave out the other feature and the Circuit judge can say whether it shall be a divorce absolute, a divorce from bed and board for two years or five years, if he is not going to get them together.

Now I find that ministers of the Gospel, who raise these objections, when a young man comes up to them and asks to be joined in marriage with a young girl only about 15 or 16 years of age, for which they get a two or five-dollar note, would make some investigation and bring the father and mother forward and get their consent, there would be less grounds for divorce; accordingly many grounds are raised whether they are tangible or not.

Now, there is not a marriage certificate given in Michigan today but what uses this language: "Whom God hath joined together let no man put asunder." That is a quotation from a part of a phrase in the language of our Savior. If ministers would refer to their own biblical law as well as our statutory law and judicial law from the pulpit, there would be no censure thrown upon us by people who mean well but don't understand the law. "When Jesus departed from Galilee and came to the coasts of Judea, beyond Jordan, multitudes followed Him and He healed them there. And Pharisees also came unto Him and asked, 'Is it lawful for a man to put away his wife for every cause?' He answered, 'He who made them at the beginning made them male and female. For this cause shall a man leave father and mother and shall cleave to his wife; and the twain shall be one flesh.'" (Matthew 19: 1, 2, 3, 4 and 5.) Provided—and in the provision the language is not misused; it is the language from which the marriage certificates are gotten—as follows: "Wherefore they are no more twain, but one flesh. What, therefore, God hath joined together, let no man put asunder."

The President: We will have to curtail this argument.

Mr. Burroughs: Now the biblical law means that the husband shall cleave to his wife, that they are one flesh and blood, that he shall take care of his wife, that he shall not misuse her; but when he abandons her and leaves her to the world, to be exposed to the world, homeless and fatherless, I say that the

laws of Michigan are humane, and I say that the discretion in the Circuit Judges of this state, and the Supreme judges in their actions and in their consideration upon the statutory law is not misplaced in God, in equity and in justice. I think the amendment as proposed, leaving out the "evil," leaving out the discussion, I have no objection to the resolution.

Mr. Patterson: I don't know how many members of this Association constitutes a quorum. I know we have had two or three hundred in attendance during the session, and we are now reduced to about two dozen members. It is an important matter, it is a matter that ought to be considered with care by the committee, with ample time. I therefore move to refer this resolution, together with the President's address, to the new Committee on Legislation and Law Reform.

(Motion supported.)

The President: It is moved and supported that we refer this resolution, together with the President's address, to the new Committee on Legislation and Law Reform. Are you ready for the question?

The question being put, the motion prevailed.

Mr. January: I am requested to offer another resolution:

"Whereas, A practice has grown up in some parts of the State for judges to withhold their decision in cases and motions for an unreasonable period of time, in some instances amounting practically to a denial of justice, and

"Whereas, Such practices have had a tendency to defeat the ends of justice,

"Resolved, That it is the sense of this Association that whereas the ends of justice will be best subserved by a reasonably prompt decision after submission of the matter at issue, thereby giving the aggrieved party an opportunity for an early appeal to a higher court to correct any supposed error."

Mr. Bates: I move the resolution lay upon the table.

The President: The motion is supported. Are you ready for the question?

Judge Shepard, of Bay City: I don't see any reason for the members of the bar not expressing themselves. I have heard of matters in my practice where delays have occurred in disposing of matters that ought to be promptly disposed of. I don't think that is one of my fault. I don't think there is any member of my bar that finds fault with me for that. I think wherever there is that complaint it ought to be corrected.

Mr. January: I hope the motion will not prevail to lay upon the table.

Mr. Davis: I think we have a statute limiting to six months the time for the decision of a case.

Mr. Shepard: Of course no member of this bar sees fit to make criticism

upon the Circuit Judges for fear of disfavor. There is no body that can express themselves upon a subject of this kind except this Association. I think this Association should express themselves freely and frankly. Any judge will be pleased to improve the practice, and these things may exist in some parts of the state. No judge is singled out, but it is merely a matter of practice. It reminds me of one of the judges down South and a case in reference to a piece of land in Missouri, on the Mississippi. He held the case until the floods of rain had washed the land away. It seems to me that this Association ought to express itself freely upon this subject. I think it is an amendment that ought to be adopted.

Mr. Stevens: I think this amendment ought to be adopted. I have known myself where a sentence was deferred until a man served one-third of the time for which he could be sentenced before his conviction was had. I think the Court should decide these questions within a reasonable time. I think the motion on this subject at this time and place is debatable, and the representatives of the profession are the proper ones to speak on the subject, and it ought not to devolve upon the lawyer who feels aggrieved over it in a particular case, but it ought to be the province of the profession, and I think the resolution ought not to be laid upon the table or referred to a committee.

Mr. Pealer: To save time, I don't want to endorse all that has been said, but I think the resolution ought to be adopted.

The question being put, the motion was lost.

The President: It is moved that the resolution as read be adopted as the sense of this meeting.

The motion being put, the resolution was adopted.

REPORT OF AUDITING COMMITTEE ON TREASURER'S BOOKS.

Mr. Shepard: The committee to whom was referred the auditing of the Treasurer's account is ready to report.

Mr. Pratt: Your committee to whom was referred the auditing of the Treasurer's report for the year ending June 18th, 1903, report that they have examined and checked the said report and find the items in all respects correct. The balance on hand at the beginning of the year agrees with the amounts shown by the last annual report. The receipts during the year agree with the Secretaries' checks, and a voucher is furnished for each item of disbursement charged except in two cases, and in those cases this committee report the items to be correct.

T. F. SHEPARD,
FRANK S. PRATT,
Committee.

I would like to say also, in view of the action that was taken a short time ago in requiring a bond of the Treasurer, that the business seems to have been done in a very businesslike and entirely satisfactory way.

The President: Gentlemen, what is your pleasure with the report of your committee?

Mr. January: I move the report be adopted.

The President: If there is no objection it will be so ordered.

Mr. Landman: As the meeting is about to draw to a close I want to make a motion that I know you will all support—thanking the Detroit Bar Association; giving them the sincere thanks of the Michigan State Bar Association for the meeting they have given here, and for the efforts which they have expended in our behalf.

The question being supported and put, the motion prevailed.

Mr. January: I desire to make a motion extending to Judge Seymour D. Thompson, of New York, our sincere thanks for his kindness and courtesy in coming to the State of Michigan and delivering to them the exceedingly instructive and able address that he has given here, both on behalf of the Bar of Detroit and the Bar of the State.

Mr. Shepard: I support the motion.

Motion stated and put and unanimously carried

The President: Judge Thompson, you will accept the thanks of this Association for the good you have done us to-day and yesterday.

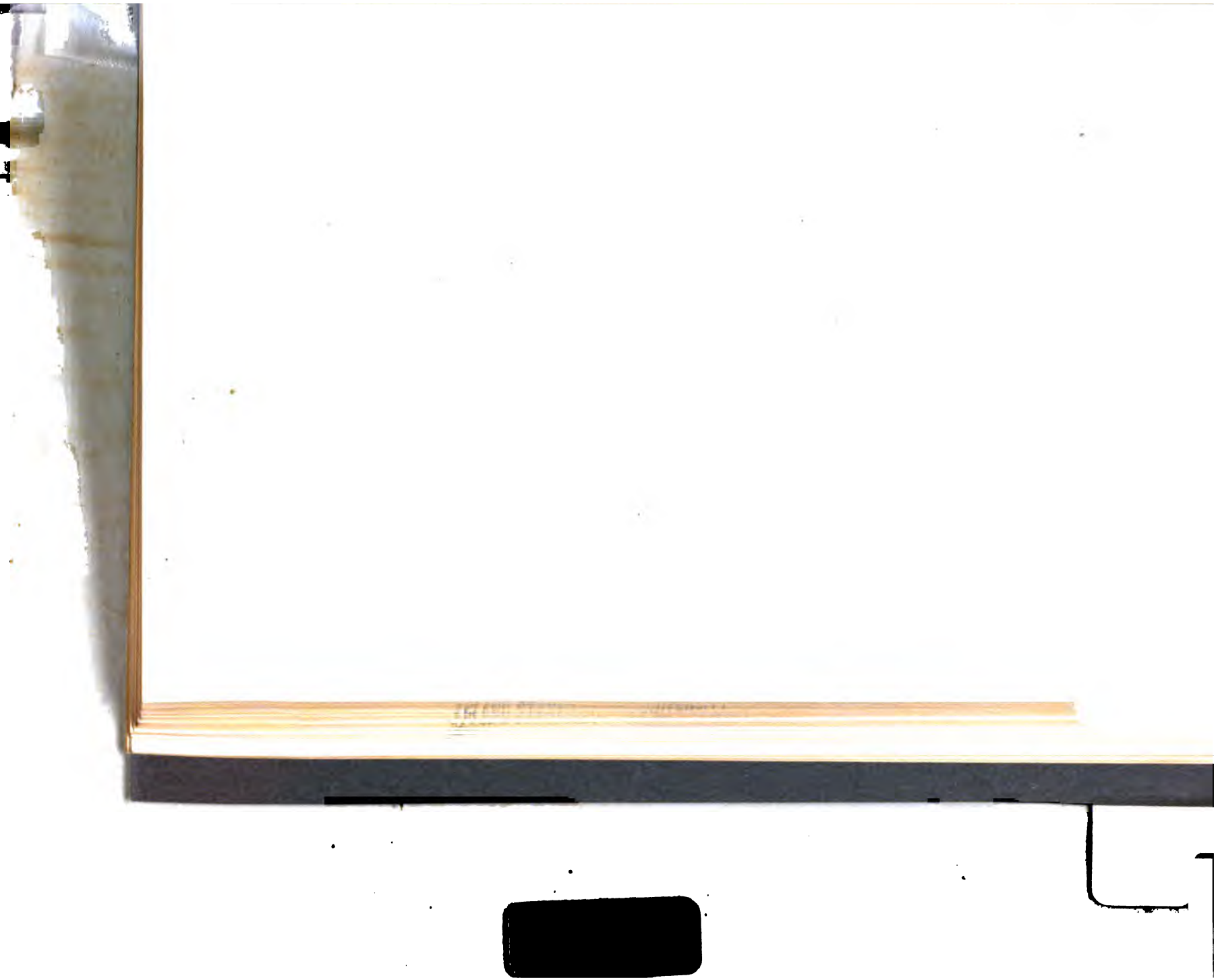
Before closing the meeting, I desire to announce that a banquet under the auspices of the Detroit Bar Association will be held at the Cadillac, and there will be an informal reception held before the banquet, and members are supposed to be there in the parlor in the neighborhood of seven o'clock, and not very much later, although they will really not meet for the banquet (in all probability) until half-past eight, local time.

In closing my official career I desire to testify my thanks not only to the officers, but to the members of this Association for the cordial help and the kind words and the sympathy they have accorded my incumbency, and it is with the sense of great pleasure that I feel that while I have accomplished but very little during my incumbency, I have had the good will of the members in the work.

Gentlemen, this closes the fourteenth annual convention of the Michigan State Bar Association.

The motion to adjourn prevails.

APPENDIX



PRESIDENT'S ADDRESS.

President Sloman: The next subject on the programme is the President's address. That, gentlemen, is really unimportant. The President intends to make only a few desultory remarks, and if what he says leaves its impress so that good may come to the Association and its members, he will feel that his work during the past year has not been wholly in vain.

At the last meeting of the State Bar Association there were three measures committed to the Committee on Legislation and Law Reform, which were to be submitted to the next Legislature, and they were to use their best efforts to secure the passage of the same. One related to the establishment of an intermediate court, the other raising the standard of admission to the bar by requiring an examination of graduates from our law schools at the hands of the State Bar Examiners instead of admitting them to practice upon diplomas from the Detroit Law School or the Michigan University. The third related to the making of the office of Justices of the Peace a salaried one. This committee of the State Bar Association worked earnestly and faithfully to accomplish what they set out to do. You will remember that in 1899 the Legislature passed a joint resolution submitting to the people the question of giving the Legislature the power to establish an intermediate court. It was voted upon at the following spring election, and was at first supposed to have carried, but upon a canvas of the votes, it was found to have been lost by a small vote. The committee, in their endeavors to procure the passage of this bill, were met at the outset with a determined opposition, not only by a large number of lawyers, but by members of the Legislature, and found that to persist in their efforts would simply mean defeat. It was suggested by one of the judges of the Supreme Court that if the amount for which an appeal could be taken was limited to say, $300.00, it would remove at least 25 per cent of the cases which were appealed to that court. The committee found a very formidable opposition to such a measure, especially in view of the fact that under the present rules of the court, oral arguments are not permitted in cases where the amount involved was less than $500.00.

A bill was then framed by the committee and presented to the Legislature which increased the number of judges from five to eight, and which provided for oral arguments in all cases, as well as on motions involving "constitutional questions and personal liberty." Aided by the efforts of the members of this Association, the committee succeeded in having the bill pass the house and senate. The bill has found its way into the hands of the Governor—unfortunately, however (from present reports), it seems the Governor is opposed to the measure, and that in all probability he will veto it. We all realize that this would be a calamity, after what the Association has done. Every effort has been made to have the Governor realize that the Bar of this State is heartily in favor of this bill becoming a law. (Applause.)

With that end in view I communicated with a gentleman of the State Bar

who I thought had a great deal of influence with the Governor, by reason of his high standing in the community and at the Bar, and for his learning, the Honorable Benton Hanchett, of Saginaw, and informed him of the reports in circulation and what efforts the Bar Association had made to secure the passage of this bill. I have Mr. Hanchett's reply here and it is a matter of the greatest moment that we take prompt action upon the same in furtherance of the work this Association has done. I will read it:

"Yours of the 10th is at hand. I have talked with Governor Bliss in relation to the bill for the relief of the Supreme Court, and I think his attitude in relation to it is not correctly reported in the public press. He desires to be informed as to the needs of the measure, and mentioned that he understood that there was to be a meeting this week of the State Bar Association, and said he would like an expression from the Association. It appears that there has been some representations made to him by members of the Bar in opposition to the bill; if there should be a unanimous expression of the Association in favor of the measure, I think it would have much influence, and I also think that the Governor desires an expression from this Association. Very truly yours, Benton Hanchett."

I have also a letter from Mr. Jno. A. McKay, of Saginaw, in which he says:

"Your favor of the 12th inst., regarding the meeting of the Bar Association, is at hand. I have just been speaking with Governor Bliss about the bill for the relief of the Supreme Court, and he states that he will take no action on the matter until the Bar Association have had an opportunity at its meeting this week to express itself, and I take this opportunity of advising you, so that any action of the Bar Association may be promptly communicated to the Governor at Lansing, as he intends to come to a decision probably at the end of the week."

Now gentlemen, this matter, in my humble judgment, should be taken up immediately upon the hearing of the report of the Committee on Legislation and Law Reform, to the end that the expression of this body may be conveyed with all due haste to the Governor. And I sincerely trust that it will be unanimous.

Gentlemen of the State Bar Association, you can do a great deal to aid in the work that has been and will be laid out for this Association, not only in relation to the measures referred to, but other matters which will be brought to the attention of the Association. I want to say to you that in this day and age of ours it is necessary for the members of the Association to show an earnest, hearty and prompt interest in the work. I believe that the rank and file favor, and will readily co-operate in whatever may be undertaken by this Association, if they are only given the opportunity. In other words, if they are made to feel that they are wanted. I have found it so during my year's incumbency of this office. I have endeavored to keep in touch with them; to acquaint them with the work which the Association has undertaken; I have courted suggestions and counseled with them, and almost without exception, found that when they had recovered from the surprise of being asked to do something more than pay their annual dues and attend the annual meeting, they responded right loyally. A feature which to my mind is a serious one in the success and welfare of this Association, is the social and fraternal aspect.

You may add all the dignity you want, you may bring all the formality you like in the organization, but you can never in this commercial age of ours awaken interest by that alone. You must create a feeling of good fellowship. You have got to make one another feel that we are brothers enlisted in a common cause for the betterment of all that pertains to the administration of justice. If it were in my power to do so, I should be seriously tempted to make this a fraternal organization, where membership in the organization would be "a badge of honor," and the password would be "loyalty to the cause" —so that anywhere and everywhere when a member of the Association meets a brother member with a hand clasp, it carries with it an assurance of loyalty to the high ideals we honor and represent, to the end that this feeling of good fellowship would make it possible to help one another in the hour of trial and distress. I want to say to you (even at the risk of being called a "calamity howler") that in this day and age of ours when the commercial instinct is rampant everywhere; when, unfortunately, the dollar mark is found upon everything in the various activities of life, it behooves us to pause and question ourselves, whither are we drifting? Is our profession to remain the honorable calling that it has been for ages, during which it has stood the test of time and changing conditions, or will it be permitted to drift into a trade towards which it is rapidly tending. We may try as we will to deceive ourselves into the belief that this is not true, but those of you who are engaged in the activities of your professional life are forced to realize and will bear me out when I say, that we are drifting rapidly in that direction, and that unless something is done to stem or stay the tide—unless a wholesome public sentiment is created, unless each member of the Association is made to feel that he has a holy work to perform, in the building up of all that pertains to the destinies of the profession, we shall continue to face a crisis that bids fair in time to undermine the welfare of our noble calling. Singly you cannot accomplish much, but unitedly co-operating in a common defense and general welfare, I feel confident you will stem the drift of the tide if you cannot stay it ultimately. I want to say to you that if you can and will awaken that feeling of good fellowship among the members of the bar, I have spoken of, the day is not far distant when the Bar Association of this State will have a voice in the selection of timber for the Bench of this State. (Applause.) I do not believe there is a body of men anywhere who are so well fitted by reason of their learning, ability and experience, to determine what timber is needed for the bench and which candidate who comes up for nomination is entitled to the loyal support of his brother lawyers. I trust that day is not far distant, gentlemen, when this will be possible. Not only that; in matters of legislation, the expression of this Association would stand to a great extent as the voice of the community. If this body of men could be gotten to stand together along the lines I have indicated, it would not be long before you would convince the community that the voice of the Bar as represented by this Association can be relied upon, and as confidence is inspired it would not be long

before the public would accept its judgment as to the wisdom of legislation and the fitness of candidates for the Bench.

A measure will be presented to you later on, gentlemen, that I believe ought to have your earnest consideration. It is one that has been brought up for consideration in the various States of the Union, and has become a law in most of them. Michigan has been tardy in adopting it. That is a bill "to make uniform the law of negotiable instruments." . . . The bill itself is the creation of the American Bar Association. It has been carefully examined by some of the best lawyers of the United States, and has been found to be meritorious and without a flaw. It is a measure that in my judgment, this Association ought to take hold of, and use its best energies, at the next session of the legislature towards securing its passage so that we may fall in line with the leading States of the Union who have already adopted it.

There is another matter, it seems to me, that the Bar of the entire State is interested in. The lawyer is certainly an important factor in all that pertains to civilization, in the building up of the community, in the building up of society. Anywhere and everywhere his handiwork is found. And it is to the lawyers of the State that the public look to to render aid to the end that society and the community may remain pure and unsullied. I refer to the divorce question. It is a sad commentary, on the virtues of the State of Michigan, when one considers the large and constantly increasing number of divorce cases that appear term after term upon the dockets of the courts throughout the State, and the ease with which divorces are being procured. Every divorce means the undermining of a home, and the home is the foundation stone of society, and our social life. We may try and make ourselves believe that in time public sentiment will grow strong enough to stem that tide, but I say that we, as members of the Bar, have a solemn duty to perform in lending our aid, and doing our part in the work of reform. Things have come to a pass, and probably you have found it so in your experience, that judges are becoming dulled in their sense of appreciation of the sacred character of the marriage institution largely because of the increasing number of divorce cases that are constantly being brought before them. In many instances, as we all know, new alliances are contracted in advance of the granting of decrees. When will this evil stop? I have a few statistics to submit to you in that connection taken from the reports of the county clerk to the Department of State, that will furnish you food for thought, because, I say, in the first place, the lawyer has the power to discourage a client from getting a divorce, wherever it is possible to reconcile the differences between the parties. Every lawyer owes a duty to himself, his profession, and the community, to cause an effort to be made in the first instance to reconcile the parties before he brings a case into court. Not only that; an expression of the Bar of this State as represented by this Association will have a wholesome influence on the action of the judges in dealing with divorce cases.

In 1898 there were 2,898 bills filed, 1,901 divorces granted and 21 refused.

In 1899 there were 3,589 bills filed, 2,328 divorces granted and 35 refused. n 1900 there were 3,470 bills filed, 2,435 divorces granted and 29 refused. In 901 there were 3,883 bills filed, 2,449 divorces granted and 47 refused. In 1902 here were 4,183 bills filed, 2,828 divorces granted and 43 refused. Of the 2,828 livorces granted in 1902 suits were begun on the complaint of the husband in 817 cases, and upon the complaint of the wife in 2,011 cases. No less than 2,280 of the marriages dissolved were originally performed in Michigan, only 107 were from Ohio, Indiana and Wisconsin—173 from other States, 208 from Canada, 29 from other foreign countries, and 31 not stated. Canada on the other hand, with practically no divorces, had contributed very largely to the number of divorces in Michigan. The total number of cases in court in 1902 were 9,040, of which 421 were contested cases. The total number of marriages in 1898 was 20,128. In 1899, 21,877; in 1900, 23,295; in 1901, 24,079. The total number of marriages in 1902 have not yet been compiled—but from the average of ten years past will not be likely to exceed the number in 1901. So that the number of divorces that have been granted in 1902 is more than 10 per cent of the number of marriages. This is an appalling condition of affairs. In 1,370 cases where divorces were granted no children existed, and in 664 families broken up there was only one child. In 356 families there were two children, and in 191 families there were three children. The total number of children deprived of family relations in 1902 was 3,136; more than one child to the average of each divorce. Now, in every family (where there are children) that is thus broken up, it means that those children are likely to get into an atmosphere that conduces towards their moral undoing. It means that the home which I have said lies at the foundation of our social structure is certain to be undermined, unless something is done—unless a strong public sentiment is created everywhere, to the end that cases may be scrutinized more closely; that instead of granting absolute divorces, courts may be induced wherever possible, to grant divorces for a limited number of years, or if the divorce is made absolute that the guilty party be prohibited from marrying for a stated period, except to the one from whom he or she has been divorced, to the end that the parties may become reconciled; and where suitable provision is made for the support of the family during that period, it is not unlikely to suppose that the husband burdened with the responsibilities of the home, yet not enjoying its privileges, is likely to find some way to become reconciled—at all events either form of decree, will discourage if not prevent the growing practice of contracting alliances that are forbidden of God and man, in advance of the severance of the marriage relation.

There is one word I wish to say to you in regard to the measure for the relief of the Supreme Court. Of course, we all know that the Supreme Court is behind in its work, but we do not all know that on the first day of January, 1903, there were 307 cases undisposed of. There were 208 cases that were regularly noticed for the January term, 112 only of those were heard, and the

balance carried over—on the April docket there were 178 cases, of which 8 were heard. The yearly average of motions disposed of by the court during the past seven years is in excess of 300. Following out the suggestions of Mr Hanchett in his letter, I communicated with the Governor, and enclosed him the report furnished by the clerk of the Supreme Court to the Senate while the bill was before it for consideration, and which was asked for by resolution, and I also enclosed him a letter written by the Hon. Mark Norris, giving some valuable statistics on the subject, so that the Governor is in possession of information which will give him a clear-cut idea of just what the situation of the Supreme Court is, and it only remains for you to signalize by your expression, that you are heartily in favor of the passage of this bill.

There are a great many topics that I might dwell upon germane to the work of the Association, but I shall refrain from it, because, as our programme shows we have many matters of interest yet to come before us. I desire, however, to express my gratitude to the officers of the Association for the kindly help they have extended to me from time to time during my administration. Ordinarily the functions of a President are supposed to be of very little moment, but after all, I believe that where the President desires to awaken an interest among the members of the Association in its work, to make them all feel that they are wanted, and that they are all needed—where he desires to establish a feeling of good fellowship to the end that whatever work is undertaken, hearty co-operation is given, his responsibility is likely to become somewhat burdensome, yet his duties have been cheerfully performed. And, if, gentlemen, I have done nothing more during my incumbency than to aid in procuring the passage of the bill for the relief of the Supreme Court, and have helped towards establishing a feeling of good fellowship, I shall feel that my efforts have not been in vain. (Applause.)

I desire to express my thanks to the Detroit Legal News and its manager, Mr. Curtiss, for the substantial aid they have rendered from time to time in placing before the members of the Association, outlines of the work it has undertaken and the progress it has made. Its manager, Mr. Curtiss, has not only freely and willingly lent the columns of his paper to the publication of matters of interest to the Association, but has devoted a great deal of his time in preparing the matter for the printer in the printing and binding of last year's proceedings, all of which was done without compensation, and in fact at a financial loss to the paper, and if there is no objection, a vote of thanks of the Association is hereby extended to the Detroit Legal News and its manager, Mr. Curtiss for the courtesy extended. There being no objection it is so ordered.

Gentlemen, I thank you for your attention. (Applause.)

I will now call upon the Secretary for his report.

REPORT OF COMMITTEE ON LEGISLATION AND LAW REFORM.

To the Michigan State Bar Association:

Your committee has considered the matters of substituting the salary for the fee system of compensating Justices of the Peace for judicial services, providing relief for the Supreme Court, and abolishing the diploma system of admission to the bar referred to it at the last annual meeting of the Association. These matters were at first considered separately by the members of the committee and were discussed by correspondence until the individual views of the members were ascertained. Bills were then prepared upon these subjects incorporating the views suggested and were forwarded to each member of the committee for criticism, amendments, correction or rejection. These several bills at the instance of your committee were introduced in the legislature, a part in the House and a part in the Senate, and were referred to the judiciary committees. In consequence of distances, absences, sickness and the pressure of business; it has been very difficult to secure quorums of the committee, nevertheless, several meetings were held and each member has cheerfully done his part in endeavoring to accomplish the work assigned to them—they regret that they could not have accomplished more. Your able President and other prominent members of the Association have rendered most valuable assistance to your committee.

I.

FEES OF JUSTICES OF THE PEACE.

Your committee first considered the bill reported to the Association by the committee on legislation and law reform of 1902 (published on page 39 of the proceedings). It was the policy of your committee, in formulating measures, to provide for substituting the salary for the fee system, without incurring unjust expense, and without interfering with the various ministerial and executive functions of Justices of the Peace in our system of township government. The bill reported in 1902 provided a salary for every Justice of the Peace in the state whether he did any judicial business or not. There are twelve hundred and fifteen organizd townships in the state, and each township, under Section 17 of Article VI. of the State Constitution is entitled to elect four Justices of the Peace. In other words, four thousand eight hundred and sixty Justices of the Peace, to be elected from the organized townships, are provided for in the Constitution. These figures do not include the Justices of the Peace elected from the eighty incorporated cities of the State. It is a fact well known to members of the Association, that very few Justices of the Peace elected from the townships ever do any judicial business, and your committee estimated the number actually doing judicial business not to exceed seven per cent of the whole number actually elected from the organized townships. It was deemed unjust and inexpedient to urge the legislature to provide salaries for the ninety-three per cent of such justices for judicial services not rendered. They were therefore compelled to consider some other mode of obtaining the desired end.

Your committee then considered the question whether the legislature could reduce the number of Justices of the Peace elected from the several organized townships, and whether the legislature could by any procedure deprive any Justice of the Peace elected from these townships of judicial power. The authority of the legislature to reduce the number of Justices of the Peace depends upon the construction of the clause "there shall be not exceeding four Justices of the Peace in each organized township," in said Section 17 of Article VI. of the State Constitution. While there may be a question whether the legislature can reduce the number in these organized townships, yet inasmuch as the number cannot be reduced without making many amendments necessary to the statutes pertaining to township boards, township boards of health, township boards of election and the various ministerial functions of Justices of the Peace, it was deemed inexpedient to seek relief in that way.

Your committee reached the conclusion that the legislature could not deprive any Justice of the Peace of judicial power under Section 1 of Article VI. of the Constitu-

tion, which provides that "the judicial power is vested in one Supreme Court, in Circuit Courts, in Probate Courts and in Justices of the Peace." It will be observed that the Constitution vests judicial power, not in Justice Courts, but "in Justices of the Peace" in their official persons.

It will be remembered that it was thought that the present fee system resulted in certain abuses which would be avoided by the salary system and the object of the proposed change was to correct those abuses.

It is a well-known fact that the greater part of judicial business done by Justices of the Peace in this state is done by Justices of the Peace elected from the cities and that the greater part of the abuses complained of have been laid at the door of the city Justices of the Peace. The committee not being able to formulate a bill that would meet the approval of the legislature and the people, which would apply to all the Justices of the Peace in the state, then considered the amount of relief that could be obtained by changing the system of compensation in the cities, where the legislature has ample powers to make the change, hoping thereby, to a great extent, to remove the cause of such abuses. Your committee considered that the question of substituting the salary for the fee system in cities having special charter, was a matter of local self government which they ought not to assume. Several of the cities in the state have already substituted the salary for the fee system of compensating Justices of the Peace for judicial services. But there are thirty-six cities existing in this state which are incorporated under the statute providing for the incorporation of cities of the fourth class. This is a general statute and is operative throughout the whole state, and your committee felt at liberty to recommend amendments to such statute. A conservative bill was therefore drawn amending Section 28 of Chapter 7 of the statute for incorporating cities of the fourth class, by dropping Justices of the Peace from that section which provides for compensating city officers and by adding a new section to said chapter, designated as Section 40, providing a salary of fifty dollars a year for Justices of the Peace elected in cities of less than one thousand population and increasing the amount fifty dollars for every additional one thousand population as indicated by the last previous state or federal census until a population of ten thousand inhabitants (which is the limit of population of cities of fourth class) was reached. The bill was introduced in the legislature, but failed to pass. The following is a copy of said bill as prepared by your committee:

A bill to amend Section 38 of Chapter 7 of an act, entitled "An act to provide for the incorporation of cities of the fourth class," approved May 27, 1895, pertaining to the compensation of justices of the peace, and being Section 3060 of the Compiled Laws of 1897, and to add a new section to said chapter to be known as Section 40.

Section 1. The People of the State of Michigan enact, That Section 38 of Chapter 7 of an act, entitled "An Act to provide for the incorporation of cities of the fourth class," approved May 27, 1895, pertaining to the compensation of Justices of the Peace and being Section 3060 of the Compiled Laws of 1897, be and the same is hereby amended and that Section 40 be added to said Chapter 7 so as to read as follows:

Section 38. The mayor and aldermen may each receive such salary not exceeding fifty dollars per year as may be prescribed by the council. The city marshal, clerk, treasurer, city attorney and engineer of the fire department shall each receive such annual salary as the council shall determine by ordinance. The compensation of supervisors for assessing and levying taxes, extending taxes on the rolls and for all other services performed by them, shall be two dollars a day for the time actually employed. Constables and officers serving process and making arrests may when engaged in cases and proceedings for violation of the ordinances of the city charge and receive such fees as are allowed to other officers for like services by general laws of the state. All other officers elected or appointed in the city shall, except as hereinafter otherwise provided, receive such compensation as the council shall determine.

Section 40. Justices of the peace shall receive salaries payable quarterly out of the city treasury in full compensation for all judicial services rendered by them.

including preliminary examinations on criminal complaints. The amount of the salary to be paid to each justice of the peace shall be determined by the population of the cities from which such justice of the peace shall be elected, as shown by the last state or federal census. Such salary shall be paid upon the following basis, to wit: Justices of the peace elected from cities containing more than one and less than two thousand population shall receive one hundred dollars per year; those elected from cities containing more than two and less than three thousand population shall receive one hundred and fifty dollars per year; those elected from cities containing more than three thousand and less than four thousand population shall receive two hundred dollars per year; those elected from cities containing more than four and less than five thousand population shall receive two hundred and fifty dollars per year; those elected from cities containing more than five and less than six thousand population shall receive three hundred dollars per year; those elected from cities containing more than six and less than seven thousand population shall receive three hundred and fifty dollars per year; those elected from cities more than seven or less than eight thousand population shall receive four hundred dollars per year; those elected from cities more than eight and less than nine thousand population shall receive four hundred and fifty dollars per year, and those elected from cities containing more than nine thousand population shall receive five hundred dollars per year. It shall be the duty of each justice of the peace in each civil and criminal case to collect such fees as are allowed by law for compensation of justices and to pay the same over to the city treasurer on or before the first day of the next month after the receipt of the same and to take the city treasurer's receipt therefor and file the same with the city clerk.

II.

ADMISSION TO THE BAR.

Your committee prepared a bill repealing the statute providing that graduates of the law department of Michigan University and of Detroit College of Law should be admitted to the bar of this state upon presenting diploma, and urged its passage by the legislature. The last report of the Committee on Legislation and admission to the bar, of the American Bar Association made in 1901, (that committee made no report in 1902) stated that only thirteen states of the Union license attorneys at law to practice upon the presentation of diplomas from a law school, viz.: Alabama, Georgia, Kansas, Louisiana, Michigan, Mississippi, Missouri, Pennsylvania, South Carolina, Tennessee, Texas, West Virginia and Wisconsin. The policy of admission to the bar upon diploma was adopted as an inducement for students to pursue their legal studies in a law school at a time when it was a mooted question whether the law school or the law office was the better place for the education of lawyers. That question is now settled in favor of the law schools and such inducements are now unnecessary. The standard for admission to the bar in this state is below the standards of a large majority of our sister states. Our statute upon the subject reads more like an advertisement for a patent medicine than a statute for the public welfare. It provides that "any person graduated from the law department of the University of Michigan or the Detroit College of Law," having taken the full three years' course, "shall be admitted to practice at the bar of all the courts of this state upon the presentation of diploma duly issued," regardless of age, citizenship and moral character. The present legislature has amended, or has attempted to amend this statute so far as age and citizenship are concerned.

The bill submitted by your committee, however, failed to be passed by the legislature.

Has the legislature authority to pass a law making it imperative upon the courts to admit students to the bar of this state upon the presentation of a diploma from a law school? Does not the constitution give the exclusive authority over this matter to another co-ordinate branch of our state government? Section 1 of Article VI. of our State Constitution vests the entire judicial power of the state in certain courts and in Justices of the Peace. That the admission to the bar, and that the disbarment

of members of the bar are an exercise of judicial power seems to be well settled. Section 5 of said Article VI. further provides that "the Supreme Court shall by general rule establish, modify and amend the practice in such court, and in the circuit courts, and simplify the same." Does not the Supreme Court possess the power to establish a rule which shall require all students, with or without diplomas, to present the certificate of the State Board of Bar Examiners as a condition precedent before any motion for their admission to the bar can be made or granted? Your committee was instructed by the association at its last annual meeting to apply to the legislature for this relief and following such instructions your committee prepared a bill and caused it to be introduced for that purpose. The following is a copy of said bill as prepared by your committee:

S. B. 432—(Lockerby). A bill to amend Section 1 of Act No. 205 of the Public Acts of 1895, entitled "An Act to regulate the admission to practice of attorneys, solicitors and counselors, to provide for a board of examiners, and to repeal conflicting acts," as amended by Act No. 93 of the Public Acts of 1897, the same being Section No. 1119 of the Compiled Laws of 1897.

The People of the State of Michigan enact:

That Section 1 of Act No. 205 of the Public Acts of 1895, as amended by Act No. 93 of the Public Acts of 1897, the same being Section 1119 of the Compiled Laws of 1897, be and the same is hereby amended so as to read as follows:

Section 1. That any person of the full age of twenty-one years and a citizen of the United States, may be admitted by the Supreme Court or any Circuit Court, to practice in any and all of the courts of record of this state upon complying with the statute as hereinafter provided

III

RELIEF FOR THE SUPREME COURT.

Your committee, before the legislature convened, endeavored to enlist the governor in favor of some measure for the relief of the Supreme Court and requested him to urge the importance of such legislation in his message to the legislature, but without success.

This Association, at its last annual meeting, favored an amendment to the Constitution authorizing the organization of an intermediate appellate court and instructed your committee, if such constitutional authority should be obtained, to formulate a bill for the organization of such a court along the lines of the bill submitted by the committee on legislation and law reform at the annual meeting of 1902. (See page 51 of proceedings of association for copy of bill.) Your committee formulated a joint resolution to amend the constitution pursuant to such instructions and caused it to be introduced in the senate and had it referred to the judiciary committee. The sentiment in the legislature against the submission of such a resolution was so general, and this sentiment was greatly strengthened by the opposition of this mode of relief from prominent members of the bar, and the improbability of the ratification of such a resolution by the people was so great, that your committee was compelled to abandon that mode of relief as impracticable at the present time. The urgent importance of prompt relief to the Supreme Court caused your committee to adopt the only mode of relief that seemed available. The members of the committee were unanimously opposed to the mode of relieving the Supreme Court by limiting the right of review. The situation was carefully canvassed by your committee, and a bill was formulated with a view of giving relief which would meet the approval of the legislature. This bill provided for the election of three additional justices of the Supreme Court for short terms, to commence on the first day of January, 1905, and then to elect two judges every two years for the term of eight years and providing that five justices should constitute a quorum for the hearing of cases and that in case of a dissenting opinion being filed, a rehearing should be granted before the full bench, and providing for oral arguments in all calendar cases and on all motions involving constitutional questions, or questions of personal liberty. This measure was deemed the best that could possibly

pass the legislature. It will give relief in the near future. It will not interfere with an intermediate appellate court hereafter, if the Constitution should be amended. It was introduced in the house and has been passed by the legislature. The following is a copy of said bill:

A bill to amend Sections 1, 3 and 13 of Act No. 146 of the Public Acts of 1857, approved February 16, 1857, as amended by Act No. 6 of the Public Acts of 1887, being Sections 177, 179 and 185 of the Compiled Laws of 1897, entitled "An Act to provide for the organization of the Supreme Court."

Section 1. The People of the State of Michigan enact, That Sections 1, 3 and 13 of Act No. 146 of the Public Acts of 1857, approved February 16, 1857, as amended by Act No. 6 of the Public Acts of 1887, approved February 5, 1887, being Sections 177, 179 and 185 of the Compiled Laws of 1897, entitled "An Act to provide for the organization of the Supreme Court," be and the same are hereby amended so as to read as follows:

Section 1. From and after the first day of January, 1905, the Supreme Court shall consist of a chief justice and seven associate justices, to be chosen by the electors of this state and in the meantime the Supreme Court shall continue as at present organized

Section 3. At the election to be held in the several townships and cities of this state on the first Tuesday after the first Monday of November, 1904, there shall be elected three additional associate justices of the Supreme Court, who shall enter upon office on the first day of January, 1905, one of whom shall hold his office until the thirty-first day of December, 1907, one shall hold his office until the thirty-first day of December, 1909, and one shall hold his office until the thirty-first day of December, 1911. The ballots cast at such election for such justices shall designate the term of service of each justice voted for. At the election to be held in the several townships and cities of this state on the first Monday of April, 1905, there shall be elected one justice of the Supreme Court who shall hold his office for the term of eight years from and after the first day of January next succeeding such election. At the election to be held in the several townships and cities in this state on the first Monday in April, 1907, and every two years thereafter, there shall be elected two justices of the Supreme Court to hold their offices respectively for the term of eight years from and after the first day of January, next succeeding such election. The several justices of the Supreme Court now in office shall hold their offices respectively during the term for which they have been elected and the term of all other justices of the Supreme Court shall be eight years as above provided.

Section 13. Five judges shall be sufficient to form a quorum for the hearing of cases and the transaction of business by the Supreme Court organized under the provisions of this act, and the court shall have the same jurisdiction and power which have been conferred by the constitution and laws now in force, upon the present Supreme Court.

Parties to proceedings pending before the Supreme Court shall be entitled to an oral hearing in all calendar cases and upon all motions involving constitutional questions and personal liberty. Whenever there shall be filed a dissenting opinion in a case heard by a quorum of five judges only, the parties therein shall have a right to a rehearing before the entire bench upon making a proper application therefor. From and after the thirty-first day of December, 1905, the powers and duties appertaining to the office of chief justice of the Supreme Court shall devolve from time to time upon the two justices of that court whose term of office shall soonest expire by its own limitation; the justice having served the longest time in said court shall discharge such duties during the year next preceding the last year of his term and the justice having served the shortest time in said court shall discharge such duties during the last year of his said term; provided, however, in case the said two justices have served the same length of time in said court then the justice senior in years shall discharge such duties during the year next preceding the last year of his term and the justice junior in years shall discharge such duties during the last year of his term.

Four terms of the Supreme Court shall be held annually, commencing Tuesday after the first Monday of January, April, June and October, which shall be called respectively the January, April, June and October terms of said court. All the terms of said court shall be held in the Supreme Court room in the City of Lansing and County of Ingham. The court may hold special or adjourned terms and shall continue its sessions a sufficient number of days at each term to hear all the cases ready for hearing and all causes and questions not decided at the term when the same were submitted shall be determined early in the next succeeding term.

IV.

CONSTITUTIONAL AMENDMENTS AND MEASURES THEREUNDER.

The Constitution must be amended before an intermediate court can be established and before the salary system of compensating Justices of the Peace for judicial services can be adopted throughout the state upon any just or economical basis. A joint resolution was prepared and introduced in the legislature providing for these measures, but for prudential reasons your committee did not urge its passage. To provide for the measures recommended by the Association in 1902 it was necessary to amend eleven of the thirty-five sections of said Chapter VI. of the State Constitution. This chapter provides for the judicial department of the state. The said joint resolution made certain changes in the Constitution which may be briefly summarized as follows: Section 1 of said chapter, in addition to the courts now enumerated having judicial power, vested judicial power in "one intermediate court" and also vested judicial power "in Justice Court" in lieu of vesting judicial power in Justices of the Peace; Section 5 gave the Supreme Court power to "provide rules of practice for all courts of record" instead of rules for the circuit and supreme courts; Section 8 grants to the said "Intermediate Court such appellate jurisdiction as may be provided by law," and confers concurrent jurisdiction with the circuit courts to issue habeas corpus and certain other writs; Section 10 provides for appointing reporters, for written opinions and dissenting opinions to be filed in the Intermediate Court. It also authorizes Circuit Judges to designate and assign judicial Justices of the Peace; Section 12 authorizes the Intermediate Court to appoint a clerk; Section 14 provides for filling vacancies on the bench of the Intermediate Court by appointment; Section 15 provides that the Intermediate Court shall be a court of record; Section 17 gives the legislature power to regulate the number of Justices of the Peace in organized townships and in cities. Section 18 gives civil jurisdiction "to justice courts" (instead of to justices of the peace) and provides that such justices of the peace as shall be designated as judicial justices of the peace and be assigned for judicial duties shall hold justice courts; Section 19 provides that judges of the Intermediate Court shall be conservators of the peace, and Section 20 provides for the election of judges of the Intermediate Court.

Bills were prepared and introduced to carry out the instructions of the Association in case such amendments should be adopted before the legislature adjourned. The bill to organize an Intermediate Court reported to the Association in 1902 (page 31 of proceedings) was introduced as the basis for such court. For the purpose of substituting the salary, for the fee system of compensating Justices of the Peace for judicial services four companion bills were prepared. The first was a bill to amend Sections 1, 2, 3 and 5 of Chapter 93 of the Revised Statutes of 1846, being Sections 703, 704, 705 and 707 of the Compiled Laws of 1897, providing for the designation and assignment of judicial Justices of the Peace by an order of the Circuit Court as a necessary qualification for holding Justice Courts. The purpose of this bill was to reduce the number of Justices of the Peace who should have authority to exercise judicial power and to draw a salary therefor. The second bill, amended Section 15 of Chapter 150 of the Revised Statutes of 1846, and being Section 11226 of the Compiled Laws of 1897, providing for compensation of judicial Justices of the Peace for judicial services in civil cases by a salary. The third bill authorized judicial Justices of the Peace to hold Justice Court and to determine certain criminal cases, and the fourth bill repealed

Section 2 of Chapter 169 of the Revised Statutes of 1846, being Section 12004 of the Compiled Laws of 1897, providing fees for Justices of the Peace in criminal cases. Copies of the said joint resolution and of the four bills last named are hereto annexed. These bills were never perfected by your committe and they are annexed to show the scheme of relief contemplated and not as accurate models for succeeding committees to follow.

A JOINT RESOLUTION

To amend Sections 1, 5, 8, 10, 12, 14, 15, 17, 18, 19 and 20 of Article VI. of the Constitution of this State, relative to the judicial department.

Resolved, by the Senate and House of Representatives of the State of Michigan that the following amendments to the Constitution of this State be and the same are hereby proposed, that is to say, that Section 1, Article VI.; Section 5, Article VI.; Section 8, Article VI.; Section 10, Article VI.; Section 12, Article VI.; Section 14, Article VI.; Section 15, Article VI.; Section 17, Artitcle VI.; Section 18, Article VI.; Section 19, Article VI., and ection 20, Article VI. of said Constitution, be amended so as to read as follows:

Section 1. The judicial power is vested in one Supreme Court, in one Intermediate Court, in Circuit Courts, in Probate Courts and in Justice Courts. Municipal Courts of civil and criminal jurisdiction may be established by the legislature in cities.

Section 5. The Supreme Court shall, by general rule, establish, modify and amend the practice in the several courts of record of this state and simplify the same. The legislature shall, as far as practicable, abolish distinctions between law and equity proceedings. The office of Master in Chancery is prohibited.

Section 8. The Intermediate Court shall have such appellate jurisdiction as may be prescribed by law. The Circuit Courts shall have original jurisdiction in all matters civil and criminal not excepted in this constitution and not prohibited by law, and appellate jurisdiction from all inferior courts and tribunals, and a supervisory control of the same. The Intermediate and Circuit Court shall also have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari and other writs necessary to carry into effect their orders, judgments and decrees and give them general control over inferior courts and tribunals within their respective jurisdictions, and in all such other cases and matters as the Supreme Court shall by rule prescribe.

Section 10. The Supreme and Intermediate Courts may each appoint a reporter of its decisions. The decisions of the Supreme Court and Intermediate Court shall be in writing, and signed by the judges concurring therein. Any judge dissenting therefrom shall give the reasons of such dissent in writing under his signature. All such opinions shall be filed in the office of the clerk of such Supreme Court and Intermediate Court respectively. The judge of the Circuit Courts within their respective jurisdictions may appoint a stenographer, designate and assign judicial Justices of the Peace, and may fill vacancies in the office of County Clerk and Prosecuting Attorney, but no judge of the Supreme, Intermediate or Circuit Courts shall exercise any other power of appointment to public office, except as provided for in Section 12 of this article.

Section 12. The clerk of each county organized for judicial purposes shall be clerk of the Circuit Court of such county. The Supreme and Intermediate Courts shall each have power to appoint a clerk for their respective courts.

Section 14. When a vacancy occurs in the office of the judge of the Supreme, Intermediate, Circuit or Probate Courts, it shall be filled by appointment of the governor, which shall continue until his successor is elected and qualified. When elected such successor shall hold his office the residue of the unexpired term.

Section 15. The Supreme and Intermediate Courts and Circuit and Probate Courts of each county shall be courts of record and shall each have a common seal.

Section 17. There shall be such a number of Justices of the Peace as the Legislature may determine, not exceeding four, in each organized township. They shall be elected by the electors of the township and shall hold their office for four years, and until their successors are elected and qualified. At the first election in any township

they shall be classified as shall be prescribed by law. A Justice elected to fill a vacancy shall hold his office for the residue of the unexpired term. The Legislature may increase or diminish the number of Justices in cities.

Section 18. In civil cases Justice Courts shall have exclusive jurisdiction to the amount of one hundred dollars and concurrent jurisdiction to the amount of three hundred dollars, which may be increased to five hundred dollars, with such exception, restriction and limitations as may be provided by law, and Justice Courts shall have such criminal jurisdiction as shall be prescribed by the Legislature. Such Justices of the Peace as shall be designated as Judicial Justices of the Peace and be assigned for judicial service by an order of the Circuit Court, shall hold Justice Courts. Justices of the Peace shall perform such other duties as may be required by law.

Section 19. Judges of the Supreme Court, Intermediate Court, Circuit Judges and Justices of the Peace shall be conservators of the peace within their respective jurisdiction.

Section 20. The first election of the Judges of the Circuit Courts shall be held on the first Monday in April, one thousand eight hundred and fifty-one, and every sixth year thereafter. The first election of the Judges of the Intermediate Court shall be held on the first Monday of April, 1905, and for one Judge of said Intermediate Court every two years thereafter. The Judges of such Intermediate Court shall be so classified that but one of them shall go out of office at the same time. The governor shall appoint Judges of such Intermediate Court, who shall hold their respective offices until their successors are elected and qualified. Whenever an additional Circuit Court is created, provision shall be made to hold the subsequent election of such additional judges at the regular election herein provided.

Be it further resolved, that said amendments shall be submitted to the People of the State of Michigan at the next spring election, on the first Monday of April, in the year one thousand nine hundred and three, and the Secretary of State is hereby required to give notice of the same to the sheriffs of the several counties of this State in the time prior to said election required by law, and the said sheriffs are hereby required to give the several notices required by law. Each person voting for said amendment shall have written or printed on his ballot as then provided by law the words: "Amendments to the Constitution relative to the Judicial Department—YES," and each person voting against said amendment shall have on his ballot in like manner: "Amendments to the Constitution relative to the Judicial Department—NO." The ballot shall in all respects be canvassed and returns made as in general elections of State officers.

This joint resolution is ordered to take immediate effect.

A BILL

To amend Sections 1, 2, 3 and 5 of Chapter 93 of the Revised Statutes of 1846, entitled, "Courts held by Justices of the Peace," the same being Sections 703, 704, 705 and 707 of the Compiled Laws of 1897, providing for the assignment, qualification and jurisdiction of Justices of the Peace.

Section 1. The People of the State of Michigan enact, that Sections 1, 2, 3 and 5 of the Revised Statutes of 1846, the same being Sections 703, 704, 705 and 707 of the Compiled Laws of 1897, be amended so as to read as follows:

Section 1. It shall be the duty of the Circuit Judges of this State, on or before the thirty-first day of December in the year 1903, to select and assign from the several Justices of the Peace, duly elected and then in office in each county in their respective judicial circuits, a sufficient number of Justices of the Peace required for the prompt and proper administration of justice; to exercise and discharge judicial functions and authority in such county by an order made in open court and duly entered in the Journal of the Circuit Court of such counties. The said Justices of the Peace thus selected and assigned shall be designated as Judicial Justices of the Peace and the said Circuit Judges in making such selections and assignments shall disregard all party affiliations and partisan favoritism and select and assign

such men only as are best qualified, intellectually and morally, to discharge judicial duties and administer justice with abiility and impartiality. That from and after the first day of January in the year 1904, "every Justice of the Peace elected in any township or city of this State," who has been selected and assigned as a Judicial Justice of the Peace of his county as aforesaid, "and duly qualified according to law, shall have original jurisdiction of all civil actions wherein the debt or damages do not exceed the sum of one hundred dollars, and concurrent jurisdiction in all civil actions upon contract, express and implied, wherein the debt or damages do not exceed three hundred dollars, except as provided in the next section, and to hear, try and determine the same according to law," during the term for which such Justices of the Peace were elected, unless such selection and assignment of such Judicial Justices of the Peace shall be sooner revoked. The several Circuit Judges shall have full power to revoke the selection and assignment of any judicial Justice of the Peace in their judicial circuits, upon cause shown and a hearing in open court. The several Circuit Judges shall have authority to select and assign other Judicial Justices of the Peace in their several judicial circuits, to fill vacancies and to provide for the proper administration of justice in Justice Court, from time to time as the public service may require. No more Judicial Justices of the Peace shall be selected and assigned in any county, than shall be necessary for the proper administration of justice, and in counties containing a population of over twenty thousand people, according to the latest state or national census, no Judicial Justice of the Peace shall be selected and assigned from any township or city containing a population of less than twelve hundred inhabitants; provided, that it shall not be necessary for Judicial Justices of the Peace to be selected and assigned under the provisions of this act, from cities having provisions in their charters for compensating Justices of the Peace for judicial service by salary; and also, "Provided, that no Justice of the Peace shall hold court or try any cause, civil or criminal, in any other township or city than in which he was elected and qualified."

Section 2. (Section 2 should be amended by inserting the word "judicial" after the first word "no" and before the second word "justice.")

Section 3. (Section 3 should be amended by inserting the word "judicial" in the first line after the article "a" and before the word "justice.")

Section 5. (This section should be amended by providing that the nearest Judicial Justice of the Peace to the residence of the plaintiff or defendant should have jurisdiction or possibly it would be well to give Judicial Justice of the Peace jurisdiction throughout the county.)

Note.—Very likely other amendments will be required to make the Justice Act harmonize throughout, but the above skeleton bill presents the scheme proposed

A BILL

To amend Section 15 of Chapter 150 of the Revised Statutes, 1846, providing for the compensation and fees of Justice of the Peace in civil cases; the same being Section 11,226 of the Compiled Laws of 1897.

Section 1. The people of the State of Michigan enact that Section 15 of Chapter 150 of the Revised Statutes of 1846, providing for the compensation and fees of Justices in civil cases, the same being Section 11,226 of the Compiled Laws of 1897, be amended so as to read as follows:

Section 1. Justices of the Peace, duly selected and assigned as Judicial Justices of the Peace for the county pursuant to the statute, shall receive an annual salary, in lieu of all other compensation for judicial services, payable quarterly out of the general fund of the county treasury. The amount of such salary to be paid to such Judicial Justices of the Peace shall be based upon and determined by the population of their respective townships or cities from which they are elected as shown by each succeeding State and national census. Judicial Justices of the Peace, duly elected, selected and assigned from townships or cities containing less than two thousand population, shall receive a salary of one hundred dollars per year; Judicial

Justices of the Peace, elected and assigned from townships or cities containing a population between two and three thousand inhabitants, shall receive a salary of one hundred and fifty dollars per year; Judicial Justices of the Peace, elected and assigned from townships and cities containing between three and four thousand inhabitants, shall receive two hundred dollars per year; Judicial Justices of the Peace, elected and assigned from townships or cities containing a population between four and five thousand, shall receive two hundred and fifty dollars per year; Judicial Justices of the Peace, elected and assigned from townships or cities containing a population from five to six thousand inhabitants, shall receive a salary of three hundred dollars per year; Judicial Justices of the Peace, elected and assigned from townships or cities containing from seven to eight thousand inhabitants, shall receive a salary of three hundred and fifty dollars per year; Judicial Justices of the Peace, elected and assigned from townships or cities containing a population from eight to nine thousand inhabitants, shall receive a salary of four hundred dollars per year; Judicial Justices of the peace, elected and assigned from townships or cities containing from nine to ten thousand inhabitants, shall receive a salary of four hundred and fifty dollars per year; Judicial Justices of the Peace, elected and assigned from townships or cities containing a population from ten to eleven thousand inhabitants, shall receive a salary of five hundred dollars per year; Judicial Justices of the Peace, elected and assigned from townships or cities containing between eleven and twelve thousand inhabitants shall receive a salary of five hundred and fifty dollars per year; Judicial Justices of the Peace elected and assigned from townships or cities containing between twelve and thirteen thousand inhabitants, shall receive a salary of six hundred dollars per year; Judicial Justices of the Peace, elected and assigned from townships or cities containing a population between thirteen and fourteen thousand inhabitants, shall receive a salary of six hundred and fifty dollars per year; Judicial Justices of the Peace, elected and assigned from townships or cities containing a population between fourteen and fifteen thousand inhabitants, shall receive a salary of seven hundred dollars per year; Judicial Justices of the Peace, elected and assigned from townships or cities containing a population of between fifteen and sixteen thousand inhabitants, shall receive a salary of seven hundred and fifty dollars per year; Judicial Justices of the Peace, elected and assigned from townships or cities containing a population between sixteen and seventeen thousand inhabitants, shall receive a salary of eight hundred dollars per year; Judicial Justices of the Peace, elected and assigned fom townships or cities containing a population from seventeen to eighteen thousand inhabitants, shall receive a salary of eight hundred and fifty dollars per year; Judicial Justices of the Peace, elected and assigned from townships or cities containing a population of from eighteen to nineteen thousand inhabitants, shall receive a salary of nine hundred dollars per year; Judicial Justices of the Peace, elected and assigned from townships or cities containing a population from nineteen to twenty thousand inhabitants, shall receive a salary of nine hundred and fifty dollars per year; and all Judicial Justices of the Peace, elected and assigned from townships or cities containing a population of twenty thousand inhabitants or upwards, shall receive a salary of one thousand dollars per year. It shall be the duty of each Judicial Justice of the Peace to collect from the plaintiff or party commencing any civil suit or proceeding before him a fee of one dollar at the time of issuing process or commencing any civil proceedings before him, and it shall be the duty of said Judicial Justices of the Peace to pay these fees into the general fund of the county in which he officiates quarterly, and make report of such fees collected and paid over as aforesaid to the Board of Supervisors annually.

A BILL

To amend Section 1 of Chapter 4 of the Reivsed Statutes of 1846, entitled "Of Criminal Proceedings before Justices of the Peace," the same being Section 1,019 of the Compiled Laws of 1897, as amended by Act No. 189 of the Session Laws of 1899.

Section 1. The People of the State of Michigan enact that Section 1 of Chapter 94 of the Revised Statutes of 1846, "Of Criminal Proceedings before Justices of the Peace," the same being Section 1,019 of the Compiled Laws of 1897, as amended by Act No. 189 of the Session Laws of 1899, be amended so as to read as follows:

Section 1. Any Judicial Justice of the Peace, duly selected and assigned as a Judicial Justice of the Peace of the county in which he resides, pursuant to the statute, shall have power to hold Justice Court subject to the provisions hereinafter contained, to hear and determine charges for offenses arising within their respective counties as follows:

1. All cases of larceny, not charged as a second offense, when the value of the property stolen shall not exceed twenty-five dollars.

2. Cases of assault and battery, not charged to have been committed riotously, or upon any public officer in the execution of his duties, or with intent to commit any other offense.

3. Charges of wilfully destroying, removing, injuring or defacing any mile-stone or mile-board, or injuring or defacing any inscription or device upon any guide-post or guide-board on any highway, or removing or destroying or injuring any guide-post or guide-board.

4. Charges for wilfully and maliciously killing, maiming or disfiguring any horses, cattle or other beast of another person, or for wilfully and maliciously destroying or injuring the personal property of another, by any other means, where the value of the beast killed, or the injury done, shall not exceed twenty-five dollars.

5. Charges for wilfully and maliciously breaking down, injuring, removing or destroying any monument erected for the purpose of designating the boundaries of any township, or any tract or lot of land, or any tree marked for that purpose, or for wilfully and maliciously marring or defacing any building or any sign-board; or wilfully and maliciously extinguishing any lamp, or breaking, destroying or removing any lamp, or any lamp-post, or any railing or post erected on any bridge, sidewalk, street, highway, court or passage.

6. Charges against any person for wilfully committing any trespass, by cutting down or destroying any timber or wood, standing or growing on the land of another, or by carrying away any kind of timber of wood cut down or lying on such land; or by digging up or carrying away any stone, ore, gravel, clay, sand, turf or mould from such land, or any roots, fruit or plant there being, or by cutting down or carrying away any grass, hay or any kind of grain standing, growing or being on such land, or by carrying away from any wharf or landing place any goods whatever in which he has no interest, of the value of five dollars or more.

7. Charges against any person for wilfully committing any trespass by entering upon the garden or orchard or other improved land of another, without permission of the owner thereof, with intent to cut, take, carry away, destroy or injure the trees, grain, grass, hay, fruit or vegetables there growing or being.

8. And all other offenses punishable by fine not exceeding one hundred dollars, or punishable by imprisonment in the county jail not exceeding three months, or punishable by both said fine and imprisonment; Provided, That whenever, in any criminal case, tried before any Justice of the Peace, the defendant shall be adjudged guilty and punishment by fine or imprisonment shall be imposed in excess of that allowed by law, the judgment shall not for that reason alone be adjudged altogether void nor be wholly reversed and annulled, but the same shall be valid and effectual to the extent of the lawful penalty, and shall be reversed and annulled only in respect to the unlawful excess.

A BILL

To repeal Section 2 of Chapter 169 of the Revised Statutes of 1846, providing for fees of Justices of the Peace in criminal cases, the same being Section 12,004 of the Compiled Laws of 1897.

Section 1. The People of the State of Michigan enact, that Section 2 of Chapter

169 of the Revised Statutes of 1846 providing for the fees of Justices of the Peace in criminal cases, the same being Section 12,004 of the Compiled Laws of 1897, be, and the same is hereby repealed

V.

REVISION OF OUR JUDICIARY SYSTEM.

Chapters IV. and V. of the Constitution provide for the legislative and executive departments of the state. The provisions for the legislative and executive departments of the state have been ample and have expanded within the constitutional limits so as to keep pace with the growth and the development of the state during the last fifty-two years. Chapter VI. of the Constitution provides for the judicial department of the state, and the judicial department is so restricted by the said chapter that it has not been able to expand and meet the demands which the growth of over fifty years has made desirable if not absolutely necessary. The prospects of a constitutional convention and a new constitution are both uncertain and remote. Our judiciary system needs revising. Would it not be quite as easy to have a general revision of Chapter VI. of the Constitution submitted by the legislature, and ratified by the people, as to amend the eleven sections found necessary, in order to carry out the instructions of the association? A general revision of our judiciary system, prepared and adopted by this Association, would be favorably considered, if not adopted, by a constitutional convention.

VI.

JUDICIAL CANDIDATES.

Does this Association, and do the lawyers of Michigan exert the influence that it and they ought to exert in the selection of candidates for the bench. In some of our sister states, the bar is mightier than the political boss and machine politics. In those states judicial offices cannot easily be utilized for party patronage. The members of the bar have better opportunities for judging, and are better judges of judicial qualifications than any other class of men. Above all other citizens, they are especially interested in having able, honest, independent and impartial judges. How can this Association, as a body of men, deeply interested in the administration of justice and in public welfare, make its influence most felt in placing the very best judicial talent upon the bench? Would not a committee composed of experienced and conservative members of the Association, whose duty it should be to consider and recommend to the appointing power and to the several nominating conventions for their consideration, men especially fitted for judicial work, tend to make the influence of the Association felt?

RECOMMENDATIONS.

Your committee therefore make the following recommendations, viz.:

I.

That the Supreme Court be requested to establish a rule requiring all law students applying for admission to practice at the bar of this state to produce and file a certificate of the state board of law examiners before a motion for their admission to the bar can be made.

II.

That a special committee of seven be appointed by the president of the Association to prepare a general revision of Chapter VI. of the State Constitution, and submit the same to the Association at its next annual meeting for consideration, all of which is respectfully submitted.

JOHN C. PATTERSON, Chairman.
DAN H. BALL,
WM. L. JANUARY, as to all except reference to admission to the bar.
RUSSELL C. OSTRANDER.

III.

That this Association approve of the Negotiable Instrument Law adopted by the

American Bar Association in 1896, as a proper measure to secure uniformity in the law of negotiable paper, and that the Committee on Legislation and Law Reform be instructed to cause the said law to be introduced at the next session of the legislature and to urge its passage.

All of which is respectfully submitted.

JOHN C. PATTERSON, Chairman.
WM. L. JANUARY.

PRESENTATION TO WAYNE COUNTY OF PORTRAIT OF JUDGE CARPENTER.

Judge Frazer: Mr. President and gentlemen of the Association—I have been requested, a short time ago, to come in here and present to the County of Wayne, in behalf of a large number of the members of this bar, a picture that hangs upon the wall of Judge Carpenter, formerly of this circuit, now of the Supreme Bench. And it does not require much notice for a man who is as familiar with Judge Carpenter as I am, to be able to say something concerning him. And it is with the greatest pleasure that I avail myself of this opportunity. It is eminently proper that his picture should be hung in this room, and connected with his court where he has so long and so ably discharged his duty as a judge.

My first association with Judge Carpenter was long before he became associated with this bench. It was not very familiar association, but it was here and there in the trial of cases, and I then very quickly learned to recognize his ability in determining the law questions from precedent. I knew of no man at the time who was a closer follower of precedent or who could point to the book and page where a certain decision was made. He became a member of this bench, and he soon found out that that was not the way to determine cases, but the proper way to determine them was upon principle. You may find decisions in all courts, in this or any other State bearing upon any given proposition, in any way you have a mind to look for them. Some you can understand, some you can't. But Judge Carpenter turned right square around and found that while a case was a help in giving him an opportunity to examine how other judges had looked at it, it was only valuable as it enabled him to determine the principles involved in the case under consideration. I have watched his growth, and no man has grown broader or stronger upon the bench than Judge Carpenter had following out that idea. (Applause.) I believe him to be a man practically incorruptible. A man staunch in his friendships, and a man not stubborn in his opinions. I have frequently seen him in consultation with the other judges, assume an opinion, and state it apparently in such language that he would be immovable, and upon a different reason, or upon a different view of the case being presented to him, he took it up and examined it thoroughly and carefully, and he, if necessary, changed his opinion. No judge, in my opinion, is fit to discharge the duties of a judge upon this bench unless he is able to change his opinion when a proper reason is presented to him. Now, Judge Carpenter and I have been very intimately associated. We have talked over our cases together, and if any man knows Judge Carpenter thoroughly, I know him. If any man thoroughly knows me, he knows me. Knows my short-comings and my out-goings and in-goings. I feel an abiding affection for the man. I believe him to be better equipped now as a judge of the Supreme Court, better able to discharge the duties of the Supreme Court than he was able to discharge the duties of a Circuit judge.

Judge Carpenter's mind moved slowly. He cannot form, at first blush, his best judgment. His requires reflection and consideration. And when he gives that reflection and consideration his opinions are liable to be the very best that can be written. So he has that opportunity as judge of the Supreme Court. I expect he will make his mark there. He will be like all the rest of them. He will write some opinions that are uncomprehended, but that is due to man's weakness. We all do it, and we will all continue to do it. Now the opinion of the bar as to Judge Carpenter varies, of course. Every man has his own opinion of every other man, and a man need only look into himself to find that his opinion of himself changes every day, if he is honest in the expression of it to himself. Judge Carpenter has many strong points and few weaknesses. He is a lovable man. He gave his opinion in a case the other day to which I took him to task for, about writing such an opinion. I told him the minority of the court was correct, and I believe he lives to regret it. In my mild and soothing way I expressed my opinion to him. (Laughter.) Most men it would have offended, but it did not offend Judge Carpenter. He came and sat on the bench with me afterwards and treated me just as he always did, as his friend. That shows the character of the man. That shows his ability to take punishment, and a judge that can not take punishment will soon have to retire from the legal contest. Gentlemen, I do not want to take up your time. I could stay here and talk an hour about the virtues of Judge Carpenter. I know very few, if any, of his failings. He is a man, a lawyer, a judge worthy to be the exemplar of any young man at the bar. And I want to tell you that Judge Carpenter learned during his administration of justice in this court, what every young and every old lawyer ought to know, that knowledge is a desirable thing to have, but it is not everything. I have known lawyers that knew all about legal propositions, and could answer almost any question you could give to them, could pass an examination under the most rigid rules any bar association could recommend, but still were utterly unfit for lawyers. Why? It is not what you know, it is your ability to use what you know that makes you successful lawyers, or successful in any enterprise. If you have this knowledge and can use it and apply it when the time comes, to the case at hand to make it available to you, you will make a good lawyer. If you have not got that, your knowledge is not useful to you.

Now, gentlemen, in behalf of those who have contributed to the purchase of this picture, and with the greatest pleasure and satisfaction, I now present it to the County of Wayne. (Applause.)

THE NEGOTIABLE INSTRUMENTS LAW IN THE LEGISLATURE.

By George W. Bates, of Detroit.

THE NEGOTIABLE INSTRUMENTS LAW IN THE LEGISLATURE.

The Negotiable Instruments Law framed by the American Bar Association, and designed to be an uniform law on the subject of negotiable instruments throughout the United States, has now become the established law in twenty-two states of this country, including the United States Congress for the District of Columbia. It represents one of the most important movements of the day along the line of legal reform, which aim to secure uniformity of the law on certain well-defined objects of legislation. These include marriage and divorce, descent, wills, notarial certificates, acknowledgment of deeds, and commercial paper. On all these subjects well considered and authoritative statements of the law have been prepared. Some of them are now before the legislatures of several states for action. The subject of commercial paper is the most advanced in this movement; and this act has been carefully prepared to secure a uniform law on this subject.

To the lawyer, the law of commercial paper is a matter of supreme importance, for it is that branch of the law which affects the vast majority of transactions with which he has to deal. To the mercantile community it is of equal consequence, for it is the principal medium through which the great majority of commercial dealings are transacted, and which has now become a part of the flexible paper currency of the country. The purpose of this act is to secure uniformity in this branch of the law so that there shall be but one law applicable to this class of contracts throughout the United States; and thus remove the confusion which now exists in the various state and federal courts, as to the rights and liabilities of the parties to such instruments.

The annoyance arising from conflicting laws seemed common to all the States. There is perplexity, uncertainty, confusion, with consequent waste, the tendency to hinder freedom of trade, and to occasion unnecessary insecurity in contract, resulting in needless litigation and miscarriage of justice. Mr. Colby, of New Hampshire, speaks of this contradictory condition of legal matters, as causing constant and gross waste of capital by suitors, and of skilled labor by bench and bar; occasions long delays, which are substantial denials of justice and issues in uncertainty of law, which Burke aptly describes as "the essence of tyranny."

The American Bar Association was the first to give this movement form and direction, and was largely instrumental in having prepared a draft of an act on the subject of Negotiable Instruments, which combined the most important features of the law on this subject. The movement began in 1891 by the appointment of Commissioners of Conference from each state to consider the general subject of the Uniformity of State Laws; and as a result of repeated conferences the Committee on Commercial Law of the American Bar Association was instructed to prepare such a law; and in December, 1895, this act was drafted by Mr. John J. Crawford, of the New York City bar. This act was reported to the meeting of the State Board of Commissioners for promoting Uniformity of Legislation at Saratoga in 1896. Then, after consultation with the State Board, the Committee on Commercial Law of the American Bar Association, and by the Association itself, it was revised and finally adopted, and is said to be a most complete, compact, and reliable statement of the law applicable to negotiable instruments. If adopted by the several states, it is believed that it will remove the confusion now existing in this country in commercial law, and establish a uniform law on the subject of commercial paper throughout the United States.

This act has already been presented to the legislatures of the several states and of Congress, and has been adopted by New York, Pennsylvania, Connecticut, Rhode Island, Ohio, New Jersey, North Carolina, Tennessee, Wisconsin, Florida, Colorado, Maryland, North Dakota, Oregon, Washington, Virginia, Massachusetts, Utah, Arizona, Iowa, Idaho, and the Congress of the United States for the District of Co-

lumbia. It is sometimes called an Americanized form of the English Bill of Exchange Act; and although framed after the English act it is strictly an original law and is really an American act on Negotiable Instruments.

Even Mr. Chalmers, the author, and several of the revisors of the English act, have expressed their highest commendation of the work of Mr. Crawford, and in some respects think it superior to the English act. Mr. Lyman D. Brewster, of Connecticut, President of the National Conference of Commissioners on Uniform State Laws, speaks of it as the product, not of a single mind, however learned and skilled, which might make it an object of distrust, but of scores of lawyers of Great Britain, best qualified to know the law on the subject, tested by fourteen years of successful experience, and revised by commissioners from thirty states in this country, aided by experts who had written on the topic—this should certainly inspire confidence that the work was well done. Then, too, while the act is simple and intelligible in its expression, great care has been taken to preserve the use of words which have had repeated legal constructions and become recognized terms of the law merchant. Mr. Crawford has annotated every section with reference to the decisions of the courts, the comments of the writers of text books, and the statutes of the different states. So that it can be safely said that there is not an important provision in the act which is not supported by some well considered decision of an American court of high authority, or by some American statute which has been tested and proved by experience. The method pursued was that when the decisions of the state courts were conflicting those of the Supreme Court of the United States were followed.

Thus all the fundamental principles and essential definitions of the law of commercial paper,—the law in short of some ten thousand reported cases is in substance condensed into the thirty-six pages of this act. The disputed points discussed at such length in the treatises on the subject are decided and harmonized. The leading authorities of this country and of England declare that it is a most useful and thoroughly prepared statute on this subject. In the recent work on Negotiable Instruments, Professor Huffcutt says that "this Act presents the best statement available of the results of the English and American decisions." Such an act should appeal with special force to the legal profession, which must hail with delight the attempt which seems to have succeeded so signally in harmonizing the many contradictory decisions on this important branch of the law and in making it uniform throughout the United States.

Thus in addition to securing uniformity on this subject, the essential features of it contain certain provisions, which tend notably to fortify the negotiability of commercial paper, and establish its validity in the hands of a bona fide holder. This is its governing principle, and when viewed in this light it results in simplifying and making the law fixed and certain.

While this act has received generous treatment in many of the states where it has been adopted, it has not fared so well in Michigan. It once passed the House, but by the opposition of the chairman of the Judiciary Committee in the Senate, it was not reported out. In the present legislature, it was reported favorably by the Committee of the Whole in the Senate, but became mixed up in the confusion produced by the primary election law, and did not get to a final hearing.

The objections urged against it in the legislature were not in our judgment that which affect the validity or the purpose of the act. In the first place, it is urged that the law is an intrusion on the practice of the profession, and that by codifying, the average man will not need a lawyer to collect a note. When this objection is properly considered, it will be seen that it is not only an exaggeration, but that it is neither sound nor logical. The time has not yet come when every man can be his own lawyer, nor will this act hasten the day when he can enjoy that distinction. It is true it will remove many of the disputed questions which now exist by reason of the differences of opinion in the several states; but the general effect will be to facilitate trade between the states and make the transaction of business less com-

plicated and more certain and sure. This objection, however, goes to the general subject of codification. The proposition is now presented whether this statement of commercial law is not more serviceable and reliable to the mercantile public than the chaotic condition in which the law exists to-day.

Judge Chalmers, the author of the English Bills of Exchange Act and an eminent authority on the "Codification of Commercial Law," said in a recent address on this subject: "The province of a code is to set out in concise language and logical form those principles of the law which have already stood the test of time. It co-ordinates and methodizes, but does not invent principles. In the case of a code the propositions of law are stated in the authoritative words of the legislature. When a particular case arises, the sole question is whether it falls or does not fall within some given statement in the code. The process of reasoning is purely deductive, and the code supplies the major premise of a syllogism. In the case of uncodified law, where a lawyer has to advise on or a court has to decide a given point, two processes of reasoning have to be gone through. The decided cases have to be examined, and from the more or less sufficient data which they give a general proposition has to be framed. This is an inductive process, which must precede the deductive process. The inductive process has to be gone through afresh each time a question of law has to be determined, for however correctly the general proposition may have been framed, the words in which it is formulated have no authority." This is the great advantage of a code, as it refers to principles that are fixed and well settled.

It is true that there is this objection by the lawyer to the present act, as codifying the commercial law; and it is in some respects natural, for there is a reason to it. On the one side, the mercantile view of the law is that it is made by lawyers, not for lawyers; it is made for laymen, who have to regulate the conduct of their business in accordance with the rules laid down by law. The man of business wants to know in advance what the lawyers are going to do in a given case, so that he can regulate his conduct accordingly. What he wants to know exactly is where he is. This is what the great mercantile judges in England have always kept in mind. It is what is known as the mercantile view of law. In 1776 Chief Justice Willes, in deciding a question of commercial law, said that "in all commercial transactions the great object is certainty. It will therefore be necessary for the court to lay down some rule, and it is of more consequence that the rule should be certain than whether it is established one way or the other." In discussing codification, it is difficult for the lawyer to grasp this point of view. He thinks, first, of the interests of his own particular client, continues Judge Chalmers, and secondly, of the nice and exact application of precedent to the particular case he is arguing. The fact that a decision, equitable in itself, may introduce uncertainty and difficulty into thousands of other commercial transactions, is a matter outside his perview, and with which he does not concern himself. The object of the man of business is, not to get a scientific decision on a particular point, but to avoid litigation altogether. On the whole, he would rather have a somewhat inconvenient rule clearly stated than a more convenient rule worked out by a series of protracted and expensive litigation, pending which he does not know how to act. In reference to the merits of judge made law, a certain writer makes this observation:

A judge deciding a disputed question of law always reminded me of a great surgeon performing an operation. The surgeon proceeds calmly with the use of his knife, and pays no attention to the blood which spurts from every vein of the patient on the operating table. So, too, the judge proceeds to apply his precedents to the case before him, regardless of the costs which spurt from every pocket of the unfortunate litigant.

But it must not be concluded that codification means the abolition of litigation. This will never happen until the millenium arrives; and in the meanwhile there will always be disputed facts which will give rise to legal contests. Lord Westbury is said to have once advised an aspiring young lawyer as follows: "My young friend,

in arguing your case, never make a mistake in your logic; the facts are always at your disposal.' The code is limited to the prevention of mistakes in logic, but it is no part of its purpose to curb the "exuberant imaginations of the witnesses." However, ambiguities and small discrepancies and obscurities in it can only be cleared away by judicial interpretation. Every case cannot be provided for, but if it provides a clear rule for a great majority of the cases which arise in ordinary business, it satisfies the needs of business men. "In dealing with commercial matters," it is said, "lawyers are apt to forget that they see mainly the pathology of business; its healthy physiological action is a matter outside of their professional experience."

But how does this act affect the Michigan law?

It is to be expected that a general law on this subject, in order to secure uniformity in all the states, must necessarily change the law in some of them; but it may be safely affirmed that it makes only few changes in the law of this state, because it is found that the Supreme Court of Michigan has in the past been generally in line with the better class of authorities on questions pertaining to commercial paper; as it has generally followed the decisions of the States of New York except where there is a conflict of opinion with the Supreme Court of other states. In such cases, it has usually followed the decisions of the Supreme Court of the United States. A careful examination of this act will show that the decisions of the Michigan Supreme Court are in harmony with its provisions, except in a few particulars, but it settles a vast number of disputed questions by making the law of this state uniform with that of other states. These changes are not of the highest importance and should at least be conceded for the sake of uniformity.

Its relation to the Michigan law is two-fold: first, in respect to the principal questions in dispute, which have given rise to so much difference of opinion in other states, but as to which this act is in harmony with the decisions of the Michigan Supreme Court; and, secondly, those in respect to which there is a marked change made in that law.

The great question about which the courts have been irreconciliably divided for over seventy-five years, the courts of New York and their adherents on the one side, and the Supreme Court of the United States and those which followed its decisions on the other, is settled by this act, which declares that the "transfer of a note in the payment of a pre-existing debt is for a valuable consideration, on which the holder can maintain a suit free from any equities between the antecedent parties." This was held in Bostwick vs. Dodge, 1 Doug., 413, afterwards affirmed in Outhwaite vs. Porter, 13 Mich., 533, in which it followed the decision of the Supreme Court of the United States in Swift vs. Tyson, 16 Pet., 1, as against the decision of the Supreme Court of New York in Bag vs. Coddington, 5 Johns. Ch. 34. This is a question which is "one of the most important in mercantile law, upon which at the same time there is most distressing conflict of authority."

There is the disputed question as to whether a "check operates as an assignment of the funds to the credit of the drawer with the bank." This act declares that a check does not so operate, and it is so held in Grammel vs. Carver, 55 Mich., 201. Also as to whether notes payable on demand are subject to demand within a reasonable time, or the indorsers will be released. This is also the Michigan law. Carll vs. Brown, 2 Mich., 401. Also as to whether a bona fide holder through a defective title can recover the face value of a note or is he limited to the amount paid. It declares he can recover the face value of the note. So held in Vinton vs. Peck, 14 Mich., 286. And also as to whether one who indorses without words of limitation is liable as a general indorser, though he may get title through a restrictive indorsement, such as "for collection." This act holds him liable as a general indorser. Also "where the instrument is wanting in any particular, the person in possession thereof has prima facie authority to complete it by filling up the blanks therein. And a signature on blank paper delivered by the person making the signature, in order that the paper may be converted into a negotiable instrument, operates as a prima

facie authority to fill it up as such for any amount. But it must be filled out strictly in accordance with the authority given, and within a reasonable time, and if negotiated to a holder in due course, it is valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up strictly within the authority given and within a reasonable time. So held in Weidan vs. Symes, 120 Mich., 657.

The changes, on the other hand, which it makes in the Michigan law, are the following:

It declares that in a negotiable instrument "the sum payable is a sum certain within the meaning of this act, although it is to be paid with costs of collection or an attorney's fee, in case payment shall not be made at maturity." Also that "the negotiable character of an instrument otherwise negotiable is not affected by a provision which authorizes a confession of judgment, if the instrument be not paid at maturity"; or "waives the benefit of any law intended for the advantage or protection of the obligor." But the act further declares that "nothing in this section shall validate any provision or stipulation otherwise illegal." Also, "when a person not otherwise a party to an instrument places his signature in blank before delivery, he is liable as indorser, in accordance with the following rule: If the instrument is payable to the order of a third person, he is liable to the payee and to all subsequent parties." Also, "when the instrument contains or a person adds to his signature words indicating that he signs for or on behalf of the principal, or in a representative capacity, he is not liable on the instrument if he was duly authorized; but the mere addition of words describing him as an agent, or as filling a representative character without disclosing his principal, does not exempt him from personal liability." Also that "every negotiable instrument is payable at the time fixed therein without grace."

These are the principal changes made by this act in the law of this state. No objection has been raised either as to the abolition of days of "grace"; or in thus imposing a liability on an agent, who signs without disclosing the representative capacity in which he acts; or in making one who signs on the back of a negotiable instrument payable to a third party before delivery, liable as an indorser, and not as an original maker; notwithstanding the law of this state allows "days of grace"; and it is held that there is no such liability on the part of an agent, who signs in the manner stated. Keidan vs. Winegar, 95 Mich., 430; and that a party who thus places his name upon a note is to be treated as a joint maker, not an indorser. Rothschild vs. Grix, 31 Mich., 149. The main objection is directed to those provisions of this act which declare the negotiability of an instrument, notwithstanding it contains provisions as to "costs of collection" and "attorney's fee," but it must be understood that while such a provision does not affect the sum payable, as being uncertain within its terms, it does not declare that "costs of collection" and "an attorney's fee" are part of the amount payable. Whether this is so or not, is yet to be determined by the Supreme Court. True, it is held in Bullock vs. Taylor, 39 Mich., 133, that an attorney fee could not be collected in a note. Still in Cayuga Nat. Bank vs. Purdy, 56 Mich., 6, the Court said that as to the legal validity of such provisions in a note, they were not to be understood as expressing any opinion in that case. At least, it would seem that this is still an open question in this state. But whether so or not, neither of these provisions are to be taken as making either a part of the amount due. However, as to the "waiver of exemption," this is held to be valid, if so stated in the note. Rogers vs. Rayner, 102 Mich., 473. But in any event, these two provisions, if governed by the law of this state, and declared to be invalid, this act could have no effect upon them, as it expressly provides that "nothing in this section shall validate any provision or stipulation otherwise illegal.." If valid under the state law, they are no essential part of the note. If valid here, no objection can be made to these provisions. But whether so or not, the negotiability of the note is not affected by the terms of this act. Their validity, therefore, must be determined by the court, in a case which involves a construction of these provisions of the act.

There is then but little substantial change in the law of this state. Whatever there is is sustained by the weight of authorities, both in this country and in England. Whether the law, as a special protection to the maker of a note containing such provisions, should throw around it a disability, so as to render them non-negotiable is not a matter which should determine the acceptance or non-acceptance of this act, as the law of this state. The claims of uniformity should outweigh such considerations, especially as it is not at all certain that these provisions of the act impose any additional obligations in any essential particular. The importance of having the law uniform with the law of other states is of the greatest consequence from the standpoint of inter-state commerce. That represents by far the largest volume of business to-day. This act deals with that business on every hand. If we are to properly understand how important is the uniformity of state laws, we are only to consider the great conflict of authorities, which exist in courts of last resort in the different states. When it is remembered that there are in the United States some fifty courts of last resort, that each state is an independent sovereignty, so far as any right exists to control the judicial utterances of the other; being in this respect the same as foreign countries, it is not surprising that there should exist such conflict of opinion on the same subject in different jurisdictions. Especially is this so, when it is considered that we are living under a most complicated system of law, embracing as it does the common law of every state, as interpreted by its courts, the common law as interpreted by the United States Courts, by the statutes of the state, and the statutes of the United States. The extraordinary thing is that in the midst of all this confusion there is so much harmony in judicial opinion.

There cannot be the least doubt that the best interests of the commercial community require that there should be a uniform law affecting negotiable instruments. The experience of the past demonstrates its necessity. The conflict of opinion already referred to is the best argument that can be made in favor of the adoption of this act. By it, this conflict of authority will disappear. It will then become possible to know the law with a reasonable degree of certainty.

"Nothing can be conceived, says Mr. Tompkins, of Alabama, in an address before the American Bar Association, "more likely to create a contempt for the administration of the law than for a citizen to be told by his legal adviser, when he consults him on the construction of commercial contracts, that the character and extent of his liability or his rights thereunder would depend upon the tribunal which may be called upon to determine them, that it will be one thing if the federal courts have or can obtain jurisdiction of the same, and another thing if the jurisdiction belongs to the state courts. The merchant in New York who takes from a customer residing in another state a negotiable promissory note for merchandise sold, ought not to be in doubt as to the general construction and operation of the contract. He ought to be able to know that the law of every other state is the same as that of New York."

Lord Herschel in speaking of the English act says that the law of "negotiable instruments has been of great utility. That it has given rise to very few questions requiring decisions by the courts, and it has put beyond controversy not a few that were in doubt, and is now applicable to the whole of the United Dominion. While a similar code for the United States of America would be a boon for the commercial community of both countries." Mr. Randolph, in his extensive treatise on Commercial Paper, published in 1888, says that "the legal profession in America waits for a brief and concise statement of the law which would be welcomed as service to the bar."

The effective argument in favor of a uniform law is that it is the law for the state itself, as well as a law creating uniformity with the law of other states. Besides, it accomplishes two things: first, it harmonizes all conflicting law on the subject, and secondly, it makes the law more intelligible to those who desire to know it. No objection can fairly be made to this method of uniformity, because all states

are equally interested in securing the administration of the same general rights, the realization of the same common freedom under the law, and as such no state can be said to lose its individuality in the least.

The law is the only institution in this country which is purely sectional in its administration. It is created and enforced entirely on state lines. That there is this conflict in authorities is only to be expected, and yet the only effect of such "conflict" is to embarrass trade and commerce, and render the administration of the law difficult and uncertain. If we were to follow the natural order of things, there could be no such boundaries as give a sectional bias to the law. Dealing as it does with trade and commerce, why should the commercial law be subject to such limitations? These agencies are national in the broadest sense of the term. They traverse the whole country without the least hindrance of any character. Inter-state commerce is now firmly established; and yet the means whereby this great institution is sought to be protected are thus hampered and restricted. Less uncertainty and delay in inter-state litigation and mutuality of rights and citizenship, without regard to state lines; are they not desirable things in themselves? Are they not objects worthy of attainment? All other agencies which enable us to secure in the highest degree the blessings of a common country are seeking improved facilities. Why, then, should commercial law be left to linger in the methods of the past? The ever-creasing demands of the times. To secure this, one general law on this subject applicable to all states and courts alike is required. Possessing, as this act does, all the essential elements of such a law, we believe that the best interests of the country demand its universal adoption.

DAMAGE LAW AND DAMAGED LAWYERS.

Hon. Seymour D. Thompson, of New York.

The invitation extended to me to address you came so late as to allow little time for preparation, regard being had to the character of the body before whom I was expected to speak; but I could not resist the temptation of meeting under auspices so flattering to me the bench and bar of this state.

Michigan was the Mecca of the young lawyer; and the fame of Cooley, of Campbell, of Graves, and of Christiancy was carried by the students graduating from the law department of the University of Michigan to the remotest bounds of our country. Ann Arbor, more than Rome, was

"The fount from which the panting mind assuages
Her thirst for knowledge, quaffing there her fill."

Ann Arbor was deified by thousands of ambitious young men who went forth from her portals to defend the right, to repress the wrong, to sit in halls of legislation, and to ascend the judicial bench.

I once heard an alumnus of that great law school call Ann Arbor "the Bosom of God." I asked for an explanation, and was referred to the famous quotation from Hooker, in wihch, speaking of Law, Hooker said that "her seat is the Bosom of God"; "and," said he, "Ann Arbor is the seat of the law, and consequently Ann Arbor is the Bosom of God."

I hope it will not be inferred from the subject which I have chosen for my address that I have fallen in the vulgar prejudice against what are known as "damage suits," by which I mean actions founded upon injuries to the person or to the reputation. A damage suit, if it is a good suit, that is to say, if it is founded in truth and in merit, is just as good a suit as any other; just as good as an action on a promissory note. And a "damage lawyer," if faithful to the court, faithful to his client, faithful to the administration of justice, and true to the ideals of his profession, is just as good a lawyer as the equity lawyer, the corporation lawyer, or any other lawyer.

But what I had in mind when I gave my address this perhaps unfortunate title was a picture somewhat like the following: Here stands the poor suitor; the widow in weeds, deprived of a husband in a railroad accident; the orphan, deprived of a father who has suffered a miserable death at the hands of a manufacturing corporation; suitors who have no money to pay retainers to counsel or to support the costs of a litigation against a powerful defendant, but whose litigation must be supported by the purse of their lawyer, or not at all. And there, by the side of the client in weeds, or in rags, or in both, stands the damage lawyer, and by his side stands his ambulance chaser. To redress the wrongs of the indigent, and even at one's own expense, is no quixotism, and ought not to be condemned, but ought to be regarded as a meritorious act. To make a trade of redressing such wrongs will in time lead the best lawyer into the grossest abuses and sink him to the lowest level. I am picturing an actual case, when I describe him as having a telephone connection with the office of the city editor of a yellow journal, and an arrangement whereby, the instant an accident happens, he is notified. On the receipt of that notice his ambulance chaser flies with a speed that outruns rumor; instantaneous photography of a touch so light that it might catch the wings of a bird in flight, could not catch the buzzing of his legs. He carries a card giving the name and office of his patron, and a list of the verdicts which he has recovered in personal injury cases, together with the names and residences of the plaintiffs, but wisely refraining from stating how many of such verdicts have been sustained on appeal, and how many reversed. The party entitled to sue for damages, if any are recoverable, is steered by the ambulance chaser into his office. There a contract is drawn up by filling out his ever-ready printed blank, by which he agrees to prosecute the suit for the client, for a stated part of the amount recovered. This makes him a party to the suit, though secret and

undisclosed on the record. In every move which he makes in its prosecution, he is making a move for himself. In preparing his case, he deftly hints to his co-partner therein—I mean to his client—what it is necessary for them to prove, and how they ought to prove it; and he encourages his client to supply the needed proof, and perhaps puts money into the hands of his henchman in order that it may be supplied. He hints to his client the possibility of injuries of which his client never dreamed: internal injuries if the client is a female, visiting upon her the prospect of dire results: spinal injuries, nervous shocks. In this manner he unconsciously drifts into the habit of suborning perjury, and the habit unconsciously grows upon him. If his case gets to the jury he rails against the soulless corporations—perhaps against the "trusts." He turns upon his opponent like an enraged wolf. Every gesture is a menace; his countenance is of itself a breach of the peace. He sinks into pathos when he rehearses the sufferings of his client, but does not hint that he is the partner of that client. He magnifies the damages which his client has sustained, but does not hint that he is to receive half of those damages. If the jury knew the real truth, it would no doubt modify the effect of his eloquence upon them. Suppose, before concluding his argument, the impassioned advocate of the plaintiff should be required to say to the jury: "In conclusion, I have to say that in case you render a verdict for the plaintiff, I will get one-half of it, and also my disbursements," what a change would come over the spirit of the dream of the jury!

Do not misunderstand me. Do not think that I advocate the retention in our modern law of the principle of the ancient and odious doctrine of maintenance and of champerty, which was a species of maintenance. That law, founded and reiterated in many English statutes until it came to be regarded as part of the common law, was simply the law of the Norman robber, couched, developed and enforced in the foreign language which he imposed upon our Saxon ancestors. He overcame them in battle; he despoiled them of their lands; he reduced them to slavery under the name of villeins. The Saxon proprietor was thus by violence robbed of his birthright and left without the means of recovering it in the courts of law established by his robbers. It is true that their complacency extended so far as to allow that he might lawfully be assisted by a near relative. But for a stranger to assist him was an offense against the laws; and it was especially reprehensible for a lawyer to assist him by advancing money to support his litigation. Robbed, despoiled, reduced to pauperism and perhaps to slavery, every writ had to be brought, and every step in procedure which he mihgt have to take entailed a bill of costs which had to be paid in advance; and hence the jargon which we still imitate, although it has become meaningless, that the successful party in a litigation "recovers his costs."—that is to say according to ancient fact, recovers the costs which he has been compelled to advance to pay for the ervices of the clerk or the sheriff.

On any moral ground that can be thought of, what blame ought to be attached to a man who assists a stranger under such circumstances in recovering his own? On the other hand, there stood the Norman thief in possession; he knew that if the law were administered he would be ousted from his possession, but he was able to say through the mouth of his friend and ally, the Norman judge, and in a foreign language, "You, the plaintiff, shall not be permitted to show that you have the right to the possession, because your lawyer or some other man is advancing the money which will enable you to say it,—money of which the defendant has despoiled you whereby, if you had it, you might prosecute this suit to recover your own." And to avoid a legal examination of the merits of the complaint of the dispossessed Saxon this collateral question of champerty was thrust into the case. Interrogatories were drawn up and put to the plaintiff or to his lawyer, and if the fact were disclosed that someone not near to him in blood were assisting him to recover his own, then for that reason he went out of court and could not bring the merits of his cause to judicial investigation at all; and the Norman thief remained in possession. I say then, with confidence, that the law of maintenance and champerty was and is the

law of the robber; that it is profoundly opposed to the law of Christ, and has no just place in a modern system of jurisprudence. Especially is it true that an investigation upon interrogatories of the question whether the contract between the plaintiff and his lawyer is champertous—a spectacle which I have seen in the jurisdiction in which I was admitted to the bar—is the investigation of a collateral question which has nothing to do with the merits of the case, and which cannot be regarded as proper from a sound judicial point of view, unless, possibly, it be for the purpose of exposing to the jury the real relation of the plaintiff's attorney to the case.

In spite of this picture, I maintain that the damage lawyer is, on the whole, a public benefactor. What security would there be for the life and limb of the traveling public, were it not for the damage lawyer, the damage law suit, and, I may add, the damage jury? What prosecuting attorney could or would redress the wrongs of the injured sufficiently to conserve the public safety? If all the damage litigation were crowded into the office of one prosecuting attorney, how many assistants would be necessary to conduct the proper prosecutions? And what motive would there be for conducting them all? On the other hand, what motive would not the corporations furnish for not conducting them? How easy it would be for them to get possession of a single man, directly or indirectly, and to smother all such proceedings! Moreover, the criminal prosecution would not generally be against the corporation, but would generally be against the employe, whose negligence led to the mischief. The sympathies of the jury would be on his side, and public justice would consequently fail totally. The damage lawyer is, then, in his worst estate, a public benefactor. And if his excesses are counteracted, as they generally are, by sound and conservative wisdom and justice upon the judicial bench, the safety of the corporation on the one hand, and of the segregated public on the other, is secured as fairly as human institutions can secure it.

On the other hand, the law department of the railroad company is apt to be well equipped with the means of parrying the assaults of the damage lawyer. I do not wish what I have to say to have any local application. I know little about what the facts are in this State; but I do know that a particular elevated railroad company in New York City has had such a remarkable success in litigation, and has visited so many surprises upon the plaintiffs in damage suits, as to lead to a serious impression on the part of the bar that it operates through sinister influences. I have in my mind's eye the picture of the law department of a railway system in another State, as it existed at a former period. According to a report which was current and generally credited, one hundred thousand dollars were annually placed at the disposal of the law department, for the disbursement of it no vouchers were required to be taken. It had a man of all work, an alleged lawyer, a kind of man whom no gentleman would think of admitting to his table or even into his house, unless by compulsion. In the expressive language of Missouri and Kentucky, "his looks was agin' 'im." His conduct did not belie his looks. The only safety for the plaintiff in many cases lay in the fact that, in the State in which this man figured, a majority of three-fourths was a good verdict in civil cases. It was therefore necessary for him to get possession of four jurors. He therefore found it more expedient to disburse his secret service fund upon witnesses; and many surprises were visited upon the plaintiff and his counsel as a consequence. A fresh and hitherto unknown witness was sprung, who knew all about the circumstances attending the accident, who stood right by and saw it from beginning to end—he did. When the time came to cross-examine him, the dismayed lawyer for the plaintiff, despairing what question to ask him first, determined to make a break, and glared at him and roared: "Where were you just one year ago to-day?" The witness hesitated and stammered. A rapid following up of this kind of assault developed the fact that just one year ago he was in the penitentiary. Sometimes the astuteness of the damage lawyer and of the railroad lawyer in "fixing" witnesses is well matched; and it is worth paying a good admission fee to go into

court and hear these witnesses hurl their opposing lies into each other's teeth. The professional witnesses that squat around under the eaves of the palace of the Shiekh-ul-Islam, and testify to any fact in any case, on short coaching, and for a trifling fee, could not possibly do better.

Do not for a moment suppose that I offer this as the usual picture of the law department of a railroad company. Some of the most honorable members of the legal profession that I have known or that you have known, have been what are called "railroad lawyers." Even to recount their names would make a catalogue too long for rehearsal. I happen at this moment to think of my friend and schoolmate, Col. Wells H. Blodgett, of St. Louis, general counsel for the Wabash Railway System, whose large-mindedness and level-headed sense settled the impending strike upon that system a few months ago,—a strike which would have visited upon the country untold calamity and injury. A learned and sound lawyer. No more open-handed, frank and honest man ever lived. There is my long-time friend, M. A. Low, general counsel of the Rock Island System at Topeka. I happen to know that he scorned the advice of a friend who wanted him to make a profit out of his trust by buying up lands where stations would be located on the lines of the new roads which he was buildnig. There-too, is my former literary associate, Edwin G. Merriam, long an attache of the law department of the Missouri Pacific Railway Company, a man who unites with learning and skill as a lawyer a spotless integrity and a rare fidelity to duty. Notwithstanding the popular prejudice against railroad corporations, men like these have commanded, and still command, a full measure of the public confidence. You had one of them in Michigan by the name of Joy, a man who commanded the respect and confidence of his professional brethren and of the people at home and abroad. They have filled high stations, both political and judicial. Nebraska sent one of them to the Senate of the United States; Missouri put two of them, by popular suffrage, on her Supreme Bench; and let us not forget that Abraham Lincoln, at the time of his nomination for the presidency, was the local attorney of a railroad company. I know of no more meritorious class of lawyers than the young men who attend to the litigation of the operative departments of the railroads. They must keep abreast of the judicial authorities, and know at every step of each case what the law of the case is. They must investigate the facts of the case, examine the witnesses and find out on what lines the defense is to be conducted. They must go through the laborious and exacting work of the trial of cases,—trying day by day a succession of cases whose facts are as variant as facts can well be. Nor is there anything small about the railroad lawyer. Possibly he may be supplied with a blank book containing passes over his road or his railway system, handsomely printed and duly signed and countersigned. He scatters these largesses among clergymen, politicians and lawyers, with the dignity of Caesar. Nor is he at all unkind in this respect to the "damage lawyer." Brethren, if any of us get stranded here in Detroit, I make no doubt that he will see that we get home; and when we get home those capitalistic money "trusts," the "bloated banks," will renew our notes.

Before the days when the prosecution of suits for damages for personal injuries had become an industry, the Supreme Judicial Court of Massachusetts made an inroad into the doctrine of respondeat superior, by holding that a master is not liable for damages to one of his servants for an injury inflicted upon the servant through the negligence of a fellow-servant engaged in the same common employment.* Prior to that time the rule of respondeat superior had been the rule of the common and of the civil law, and no such exception had been engrafted upon it, though there were no precedents for its application to such a case. Why this exception was now engrafted upon it was certainly not made clear by the reasoning of Chief Justice Shaw. It was rested upon the proposition that the servant, upon entering the service, is

*Farwell vs. Boston, etc., R. Co., 4 Metc. (Mass.), 49.

deemed to accept, as a part of his implied contract of service, the risk of injury from the negligence of other servants of the common master engaged in the same common or general employment. But why is he deemed to accept such risk? Why, for example, should a brakeman on a railway train be deemed to accept the risk of injury from the negligence of the engineer in charge of the train any more than should a passenger on the same train? Both enter into the situation of danger voluntarily; both enter into it in pursuance of contract with the railway company. Neither one has the power of selecting, or overseeing, or controlling, or discharging the engineer—neither has this power any more than the other has it. The court which established this innovation upon the rule of respondeat superior did not and could not explain why it did it. It was a cold and naked piece of judicial assumption—a bald piece of judicial legislation. The reason given by Chief Justice Shaw for the rule was: "Because the implied contract of the master does not extend to indemnify the servant against the negligence of anyone but himself [the master]; and he is not liable in tort,—as, for the negligence of his servant,—because the person suffering does not stand to him in the relation of a stranger, but is one whose rights are regulated by contract, expressed or implied." There is not, and never was, an implied contract. It is a misnomer, a pure judicial assumption, in pursuance of which the contract becomes not what they have agreed upon where they have made no agreement at all, but what the judge, after the fact, is going to say. The rule of respondeat superior had obtained from the earliest dawn of history in our ancestral country and in that ancient country from which we have derived so much of our civilization and our laws—for many of our laws and institutions take root in Rome. It was not, indeed, a rule of concrete justice in each particular case. Where the master had been careful in the selection of his servant, no reason, founded on concrete justice, could be deduced in favor of the conclusion that he, being innocent, should answer for the negligence of that servant which he had not authorized, and which he had exerted reasonable efforts to prevent. It should seem that the master might fairly repose upon the elemental justice inhering in the laws of his country, and say

"What judgment shall I dread, doing no wrong?"

But the servant was in most cases insolvent. He could not respond in damages to the person injured. A criminal prosecution against him might, in theory, redress the injury done to the public, but it would not cure the injury done to the individual. The rule of respondeat superior was rested on a more profound consideration. It was rested upon the consideration that where an injury is done which cannot be redressed by an action for damages against the immediate person doing the injury, that person shall be answerable who put him in a position where he could do it, and who stood under duty and who had the best opportunity of preventing him from doing it. That reason applied just as much to an injury to one servant through the negligence of a fellow-servant as to an injury visited by a carrier upon his passenger. In neither case did the injured person select the person committing the injury and put him in the position where it was possible for him to commit it. In neither case did the person receiving the injury control or have an opportunity to prevent the injurious act or omission.

It was in the era of railroad building, and in the early days of that era, public opinion was excited strongly in favor of railroads and of railroad companies. The directors of this railroad company, their other officers and their lawyers were all no doubt eminently espectable men. The judges were no doubt eminently respectable men. It is safe to say that none of them had ever worked at the trade of a mechanic; had ever swung the sledge of a blacksmith, or handled the awl of a shoemaker, nor run a locomotive, nor handled a switch. The judges, in deciding that celebrated case, were therefore doing their thinking in favor of the class to which they belonged, and in the current of the general opinion possessed by that class. In doing so they forgot the rights of the segregated laboring class, of men who supported their little families on such a meagre wage as a dollar a day. And they took it upon themselves to estab-

lish a rule of law in favor of the rich and against the poor. Their work long remained; it was entrenched in money, power and respectability. The wealthy, the powerful and the intelligent classes, those who controlled the press, who voiced the wisdom of God from the pulpit, were all of that way of thinking at that time. The doctrine therefore spread. It was enunciated in court after court by judges who were fairly learned in the law, and who undoubtedly were conscientious men. But when they came to give reasons for the doctrine they were just as helpless and childlike as was Chief Justice Shaw, its first exponent. The only reason which they could think of was a brutum fulmen. It was that the law presumes that the laboring man agrees on entering the service to accept such risks as a part of his contract with his master. Why does the law presume and who and what is the law that presumes? Having decided the question without first finding a reason for their decision, and being in the predicament of men struggling to find a reason for something which they have already decided, some of them gave one reason and some another. Some of them hit upon what has been called the "con-association doctrine," a doctrine which was sprung by Chief Justice Shaw in the Farwell case, and then abandoned, manifestly because it would not fit the case,—the locomotive engineer who was hurt and the switch-tender who hurt him not being in a state of "con-association;" a doctrine which, so far as I know, now remains only in the decisions of the Supreme Court of Illinois. That doctrine was that the rule of respondeat superior ought not to subsist in such cases, because the injured servant was in a position to watch over his fellow-servant and report his negligence or deficiencies to the common master. A logical outcome of this reason was that where there was no such "con-association" the "fellow-servant rule" did not apply. But Chief Justice Shaw refused to follow this doctrine to the logical outcome. The seizing upon such a reason proves that there was no good reason for the innovation. The fact that every court save one has abandoned that reason—has abandoned "the con-association doctrine"—leaves the rule without support in legal reason, on the condition of things which existed when it was declared.

And the damage lawyer has been steadily tomahawking it. He may not be a great lawyer, but he is great enough to go into the legislature and there to exert himself in favor of the abrogation of a rule which his experience teaches him is founded in injustice. The result of his labors has been that the "fellow-servant doctrine" is either abolished or essentially modified in twenty-two American jurisdictions, and in some parts of our country it is rapidly going by the board. Judicial inroads have been made from time to time upon it until, in some jurisdictions, the doctrine does not apply at all as between an inferior and a superior servant, but a mere foreman of work is not deemed a fellow-servant within the meaning of the rule. In the state where judicial legislation first established the rule, it has been abrogated by statute with respect to the negligences of servants "entrusted with and exercising superintendence."*

But while there seems to have been no sound reason for thus abolishing pro tanto the rule of respondeat superior with respect to injuries proceeding from the negligence of fellow-servants, at the time when that rule was invented, there is such a reason now. That reason has been furnished by the servant himself. It can be spelled out in two words, "Labor Union," or in two other words, "Walking Delegate." Within the last half century the organization of workingmen into unions has become so general that in many of the most extensive trades the details of the conduct of the work are substantially taken out of the hands of the employer. If he is the owner of a printing office and if his employes are members of the Typographical Union, he is likely to come into his office on Monday morning and find a new set of rules posted up for its government. These rules are made solely by his employes and he is not consulted with respect to them; but if he does not submit to them a general strike

*Reno, Employers' Liability Acts, p. 557.

follows, no matter what the state of his contracts with his customers may be. It is necessary that his foremen should be a union man; and whenever a new question arises, his men "knock off" from their work and meet in one corner of the composing room and hold what is called a "chapel" and decide the question for him, and unless he submits to their decision a strike follows.

It is the same in railway service. The master cannot exercise his free option in employing or discharging men. He is indeed held liable for negligence for employing incompetent, drunken, or otherwise unfit men, where an injury is visited by the unfit man in consequence of his unfitness upon a fellow servant. But he is not free to discharge, at his discretion, a man whom he deems to be unfit. The discharge of a single man upon a railroad in the hands of Federal court receiver produced the great Southwestern railway strike of 1883 and tied up a great railway system for several months, with enormous loss to the railway company, to the public, and to the railway employes themselves. There was a time—and I suppose the same condition continues—when a master mechanic, division superintendent, or other operative foreman of a railway company, could not send out a particular engineer in charge of a particular train, but was obliged to send them out according to their positions on a list. The morning might be foggy; a flood might have endangered a particular part of the road; information of train robbers infesting the road at a particular place might have come to the company; and yet the discretion of selecting some man of peculiar ability or courage to meet the threatened danger was denied to the employer, though he continued responsible for the safety of his passengers. His srvants had taken the conduct of his business out of his own hands.

Again, in the hiring of men he is limited to the labor monopolies called "unions." If he employs a single "non-union man" he is notified by the ever-present "walking delegate" to discharge him, and if he fails to do so a general strike follows. What is more infamous, this strike is often accompanied by a "sympathetic strike"—a strike of other employes against their own employers, who are in no way responsible for the grievances which precipitated the previous strike. No sense of justice attends these strikes; no concern whatever for the rights of the public; no compunction about violating contracts with employers; but the proposition is that unless the master of another set of men accedes to their demands, he shall not carry on his work, and neither shall our master carry on his work.

Every strike involves two essential propositions: 1. We will not work unless our demands are acceded to. 2. We will not allow anyone else to work in our place, but will prevent it by force.

As the master is subject to this species of coercion—as he is no longer free to employ or discharge his men,—the reason which makes him responsible for injuries visited upon one servant through the negligence, incompetency or drunkenness of a fellow-servant whom he has employed (or failed to discharge) with knowledge of his habits, or under circumstances charging him with such knowledge, no longer exists. The maxim of the ancient law applies: Cessante ratione, cessat ipsa lex.

Keep in mind the fact that the master is no longer free to employ or to discharge. In employing he is limited to a narrow cult called the "Labor Union." It is one of the principles of this monopolistic "muscle trust" that its members will not work side by side with those who do not belong to their trust. They heap upon such persons epithets so vile that I will not insult my audience by repeating them. And they assault them, kill them and intimidate their families. All that such persons have done to deserve such treatment is to exercise their lawful right to sell their labor in the market to the highest bidder; to exercise their right of freedom of contract; to work where and when they please and at what wage they please, in order to earn their daily bread and support their families; and to do it free from the dictation of a turbulent majority, or from that of an insolent "walking delegate." The judges who are making inroads upon the so-called "fellow-servant doctrine," who are making partial judicial repeals of it, have so far utterly failed to take into con-

sideration this new state of things. Such is their professional conservatism that would be necessary to hitch a locomotive to them to drag them far enough to ti front to get them abreast of it. But they still go on making inroads upon the "fellow servant doctrine" and in enlarging the liability of the master when he is utterly hel less to protect himself against that liability.

The complacency of the early judges toward the railroad companies is well illus trated by the way in which some of them handled the subject of contributory negl gence. I do not say that the railroad pass got in its deadly work here, as no doubt did elsewhere; but I call attention to the fact that the judges in England were to great extent shareholders in railway companies, so much so that, within my mem ory, it was difficult in England to get together a bench of judges to hear a particula railway case, not because they were railway shareholders generally, for that woul not have disqualified them, but because so many of them were shareholders in th particular railway company. The doctrine started out by the celebrated declaratio of Lord Campbell, that the law has no scales with which to measure the relative degree of fault of the person injured and the person committing the injury,—fo which reason if the person injured was guilty of negligence or other fault which contributed to the injury in any degree, however slight, there could be no recovery of damages. That great judge declared that the law had no scales with which to measure the relative fault of the parties, in the face of the fact that the admiralty law had always had, and had always used, a very good pair of scales adjusted to this species of judicial work, dividing the damages where both parties were at fault. But under Lord Campbell's doctrine, the railway company might be guilty of the most gross and aggravated form of negligence tending directly to produce the catastrophe which was the subject of the trial, and the victim of that catastrophe might be guilty of faults of a very slight and trivial nature; faults which human beings are very apt to commit every day; and yet he must go wholly without compensation, while the chief author of his hurt went scot free. In the era of railroad building, and of judicial complacency to railroads, that doctrine was taken up in Pennsylvania, and it was followed in other States until it was mouthed by the judges all over the country. The damage lawyer brought his battering ram to bear upon it; he never ceased to point out its injustice. Two courts repudiated it and adopted in its stead the doctrine of "comparative negligence." Some courts, under the stress of justice, found a way out of it in a manner peculiarly characteristic of lawyers. They imported into our law a jargon of the civil law in order to find a way around it. That jargon was the doctrine of proximate and remote cause. It was the maxim proxima non remota causa lex spectatur. Although the plaintiff may have been negligent, yet if that negligence was not the proximate, but was only the remote cause of the catastrophe, there might still be a recovery.

Oddly enough, this doctrine did not spring out of any stress of justice relating to the life of a human being. It sprang, in England, out of the stress of justice relating to the life of an ass, and in America out of the stress of justice relating to the value of a drove of hogs. Davies hoppled his ass and left it in the highway to graze, and the servant of Mann, driving carelessly down the highway, drove his wagon over the ass and killed it. Davies recovered damages on the ground—according to this jargon, which, I believe, however, was not used in the opinions which were delivered in that particular case—that, although his negligence had created a condition of exposure and danger, yet that did not excuse the defendant, after seeing that condition of exposure and danger, in negligently inflicting the injury. So, Kerwacker, an old Pennsylvania Dutch farmer living in Ohio, allowed his hogs to run at large in the vicinity of a railway track. That created a condition of danger. A railway train ran over them and killed some of them, and Kerwacker recovered damages. The expiring bray of Davies' ass, and the expiring grunting and squealing of Kerwacker's hogs, combined with the subdued intonations of judicial gravity, produced two of the best decisions in our books of the law. The result now is that, although a man may expose himself or his

property to a negligent injury, yet if another man comes along and inflicts that injury upon him or it, after seeing the exposed situation, he must pay damages, and full damages. If the details of this innovation could be investigated, I believe that we should feel bound to attribute the great reform to the damage lawyer with his effective battering ram. He battered down the nonsensical proposition of Lord Campbell, and of his judicial apes in this country, and he established in its place a principle of solid justice, though couched in a jargon incomprehensible to common minds. The meaning of that jargon is that if you do the damage you must pay for it; and that if I did not bring upon myself the injury, I am not to suffer for it.

In another respect railroad or corporate influence—for I can ascribe such an anomaly to no other source—induced many of the judges to violate the analogies of the law by holding that a party suing another for damages founded upon the negligence of that other, must allege and prove his own freedom from contributory negligence, or he cannot recover. He must aver in his petition, declaration or complaint, that he was free from negligence; he must aver it either by the use of express terms, or by setting up a state of facts from which the inference fairly arises; and unless he does this his pleading is fatally defective.* Nearly one-half of the American courts have adopted this doctrine; but I am glad to find the courts of the United States and of the other more than one-half of the States on the right side. There is neither judicial nor common sense in it. At common law a party suing for damages for a trespass did not have to start out by alleging that he himself was free from fault. In the great Squib case,† the plaintiff did not allege that he himself was free from fault. The innovation necessarily proceeded upon the premise that the fact of an injury to a person, without regard to the circumstances under which the injury takes place, raises a general presumption of negligence on the part of that person. To state such a proposition is to show the nonsense of it. There is no sense in the proposition that the fact that I am hurt by B. raises a presumption that I have been guilty of some wrong inducing B. to hurt me, or that, instead of being hurt by B., I was hurt by myself. A passenger seated in a railway coach is injured by the derailment of the train. What sense is there in raising from this fact the artificial presumption that he was in fault, and in requiring him to overthrow this presumption by pleading and proving that he was in the exercise of due care, or negatively that he was not wanting in due care, leading to the injury? On the contrary, the trial ought to be approached as a judicial investigation, not prejudged in favor of either party by any artificial presumption. The case at the outset ought to be a piece of white paper; the party claiming fault on the part of defendant as a ground of recovering damages from him, encounters the general presumption of innocence and right-acting, and the burden is upon him to overthrow that presumption by proof. On the other hand, the defendant seeking to excuse his own wrong by throwing it upon the plaintiff, encounters the general presumption of right-acting, and the burden is, or ought to be, upon him to overthrow that presumption by proof.

In the few remaining States where this anomalous doctrine prveails, about one-third of the number, the damage lawyer is already turning his attention to it and lifting his tomahawk against it. In the year 1899 it went by the board in Indiana, in consequence of a legislative repeal. It ought to go by the board in Michigan, and in every other State where the judges have fallen into the aberration of adopting it.

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*I regret to find this is the law in Michigan: Torongo v. Salliotte, 99 Mich., 41; s. c. 57 N. W. Rep., 1042.

†Scott v. Shepherd, 2 W. Black., 892.

REPORT OF COMMITTEE ON LEGAL EDUCATION AND ADMISSION T THE BAR.

Prof. Harry B. Hutchins, of Ann Arbor.

Mr. Hutchins: Mr. President and gentlemen of the State Bar Association: I fi myself laboring under some embarrassment this morning for the reason that I ha no formal report to submit. It is due, I think, that a word of explanation should given. Notice of my appointment as chairman of this committee for some reas failed to reach me; and I was not aware until three or four days ago, when I receiv a letter from your President, asking if my report would be forthcoming, that I ha any duty to perform in connection with this meeting of the Association. Since recei ing your President's letter, I have endeavored to get a meeting of the committee, b I have not been able to do so, or to have a conference with any of the members, ex cepting a very brief one with Mr. Wolf. What I have to say, therefore, must be i the form of one or two suggestions that have been agreed upon by Mr. Wolf an myself.

So far as professional requirements for admission to the bar are concerned, Michi gan, at the present time, ranks with those States that have taken the most advance steps in this direction. An examination of the requirements of the different State will show this to be the fact. The statute governing admission, requires three years o study; and the members of our State Board of Law Examiners have from the first been painstaking and thorough in their examinations. Eight years ago the course o study at the University leading to the degree of Bachelor of Laws, was lengthened from two to three years; and the requirements for admission to the department o law. That we are succeeding, measurably at least, in the work of legal education, is years past the candidate for a degree must come to us with at least a four years' high school preparation in a school approved by the faculty. It is the constant effort of the teaching force to maintain a high standard of excellence in the instruction given and to make the degree stand for thorough preparation in the elements of the law. That we are succeeding, measurably at least, in the work of legal education, is evidenced by the fact that the department draws students from nearly every State in the Union. But while Michigan is in the van so far as professional requirements for admission to the bar are concerned, she is, excepting at the University, far behind several other States in the preliminary requirements for legal study. The statute is without any definite requirement in this direction: and while the State Board has a rule upon the subject, in which a standard is fixed, yet there is no scheme for a preliminary examination by any one who is specially fitted for the duty. If any examination is held, it must be by members of the Board, who may or may not be fitted for the work, and at or about the time that the candidate applies for admission to the legal examination. It is needless to suggest that an examination as to preliminary acquirements, held under such conditions, must be far from satisfactory both to the Board and the candidate, and that it is not in any sense preliminary to legal study. It is a self-imposed duty so far as the members of the Board are concerned, and one, I am sure, that they would be the first to declare themselves not well equipped to perform. It goes without saying that preparation for the study of law should be had before professional study is begun. A minimum standard of preliminary training should be fixed by law and a scheme devised by which the student's fitness for legal study, so far as preliminary preparation is concerned, can be determined before he can regularly enter upon his legal studies. In several of the States a requirement of this kind has for some time been enforced, and the results have been most satisfactory. In New York, for example, preliminary examinations are conducted under the authority and direction of the Regents of the University of the State of New York; and before a student can enter upon his legal studies, if he is preparing for admission to the New York bar, he must file in a designated office the certificate of the Regents, showing that he has complied with the statute in regard to preliminary

requirements. In that State at the present time, if I remember correctly, the requirements are substantially the equivalent of a high school course of four years. We have not in Michigan any such machinery at hand as that in New York to which reference has been made, but machinery equally effective could undoubtedly be devised. It is possible that the difficulty might be met by a law providing that such examinations should be conducted under the authority and direction of the State Board of Education. I am not prepared to place before you at this time the details of a plan, but I will suggest that the securing of such legislation, as will remedy the defect that I have pointed out, may well occupy the attention of this Association.

Another matter that seems to be within the functions of the Association and that, in my judgment, should receive its attention, is the formulating of a course of study for students in law offices.

The student of to-day who comes to the bar through the law office encounters numerous difficulties, not the least of which is his failure to receive guidance as to the order of his reading and suggestions as to the best books for student use. The busy practitioner cannot give attention to these matters, and the chances are that he may not be informed as to books that are prepared primarily for the use of law students. The result is that studying law in a law office at the present time is practically studying law alone, without guidance or suggestion, excepting in regard to practical matters in which the student may be engaged from time to time as the deputy of his preceptor. In regard to these, he, of course, receives specific directions, and thus gets through in an unsystematic manner, much valuable experience. The guidance of the student in the law office, so far as he receives any, is in the mechanism of the law, so to speak, and not in its science. All will agree that the best equipment for the lawyer is the scientific study of our jurisprudence under experienced guidance, supplemented by the practical application of legal principles under the direction of a competent preceptor. If we can help the student in the law office to acquire the scientific spirit and to apply it to his legal studies, we shall certainly be doing a good work. A step in this direction would be the formulating by a committee of this Association of a course of legal study for such students, the same to be accompanied by directions and suggestions as to books and methods of study. The publication and distribution of such a course, with accompanying directions and suggestions, would, I am sure, be a substantial help to the student in the law offices of the State, a help which this Association should, I think, willingly extend. I should perhaps add that the demand for something of this kind has been forcibly impressed upon me by the frequent inquiries from law office students for directions as to reading that come to members of the Law Faculty of the University.

I must crave the indulgence of the Association for a moment more, while I enter a protest in behalf of the Law Faculty of the University. What I now say is, of course, no part of my report as chairman of the Committee on Legal Education and Admission to the Bar. Your Committee on Legislation and Law Reform secured the submission to the legislature that has just adjourned, of certain amendments to the statute governing admission to the bar. One of the proposed changes was that all candidates for admission should be examined by the State Board of Law Examiners, another, that the moral character of the applicant should be passed upon, and a third that all applicants should be at least twenty-one years of age and citizens of the United States. The present law is certainly defective in not requiring an adjudication as to moral character and in not providing that the applicant must be of age and a citizen. In behalf of the Law Faculty of the University, I desire to express regret that changes in these regards were not made. The adoption of the proposed change in regard to all candidates for admission being required to pass an examination before the State Board of Examiners, would, of course, have resulted in depriving graduates in law from the University of their present privilege of being admitted on motion, without examination. It is not my purpose to discuss the question of the desirableness

of this proposed change. Upon that subject I wish simply to suggest that the University is a State institution, that its instructors are State officers, that its law professors are men of experience as practitioners and teachers, that they are performing their work of instruction and examination conscientiously and thoroughly, and that under the circumstances, the privilege accorded to our university graduates cannot with reason be regarded as unusual or dangerous. To take away the privilege, particularly for the reasons suggested in a communication to which I will presently refer, would certainly be a severe and unwarranted reflection upon the department of law of the University and upon its faculty. While the amendments to which I have referred were pending a printed memorial, emanating from your Committee on Legislation and Law Reform, in which the passage of the amendments was urged, was sent to the members of the legislature. It should be said that the memorial received the unqualified endorsement of but one member of the committee. The proceeding in itself was, of course, regular and it would not be subject to criticism except for the objectionable nature of some parts of the contents of the document. But as it contained a most unjust and unmerited attack upon the Department of law of the University, I feel that it is my duty to bring the matter before the Association, and I beg leave, in the name of the law faculty, to record a most vigorous protest. As one of the reasons for taking away the privilege in regard to admission now accorded to law graduates, it was urged that the moral character of the profession would thereby be advanced, as the State Board of Law Examiners would rigidly exclude all those who failed to meet the moral standard fixed by the Board. It was said in substance that at the University there is no moral standard, but simply an intellectual one; that whatever the student's life and habits, he will receive his degree and thereby his admission to the bar, if he reaches the standard of scholarship fixed by the law faculty; that by means of this road immoral persons, foreigners and persons under age, if they can meet the intellectual requirements, can readily gain admission to the ranks of the profession. It is hardly necessary, I am sure, for me to state that such representations are grossly inaccurate. They are without justification, and should never have been made by a member of this Association. An investigation of the facts would have shown to the writer of this memorial that the character of the law student is a constant subject of inquiry by the law faculty; that when he enters the department he must present satisfactory credentials as to character; that if he is found during his course to be forming objectionable habits, he is disciplined or dismissed from the Department; that the faculty never knowingly recommend for graduation anyone whose moral character is subject to criticism. An investigation would also have shown to the writer that the faculty never recommend for admission foreigners or persons under the age of twenty-one years. We have always interpreted the law as meaning that such persons should not be admitted. In view of the facts and the misrepresentation to which reference has been made, I feel that I am justified in the protest that I make in behalf of the law faculty

I trust that members will pardon me for having taken so much of their time.

REPORT ON LEGAL EXPERT EVIDENCE.

By Mr. Michael Brennan, of Detroit.

Mr. Brennan: Before taking up the report I wish to add a word to something that has already been said this morning. After the magnificent address of Judge Thompson, and after the very able address of Judge Johnson upon his experience in the Philippine Islands, I was particularly struck with the encomium that he gave to our dear friend, Judge Taft, one of the noblest Americans that ever lived; one of the wisest choices ever made by any administration. He has conducted himself in the Philippine Islands, in a position of great delicacy, because he came to govern a people alien in race to him, alien in religion to the majority of the people of this country; through all his splendid administration he has never uttered one word in public or private that could wound the susceptibilities of any man and of the minority and of the respectable minority of the American people who differed from him in religion. I am sorry I cannot say the same thing about some of the other subordinate appointments. That is all I have to say.

To the State Bar Association:

The Special Committee on Legal Expert Evidence begs leave to report as follows:

At a meeting of the State Bar Association, held at Ann Arbor, May 23d, 1900, Dr. J. W. Herdman read a paper upon medical expert testimony, and on motion of Mr. Justice Grant, the same was ordered referred to a committee, with instructions to report at the next annual meeting, with such recommendations as might be deemed desirable. The committee was named by the incoming President. The Honorable Edwin F. Conely was chairman, but owing to his illness and subsequent death, no report was made by the committee. The present President of the Association appointed a committee some time ago and this committee has given the matter of expert legal evidence, in so far as medical expert evidence is concerned, serious consideration.

The question of legal expert testimony has been the subject of much criticism by the bench, the bar, the medical profession and litigants. The criticism upon the present methods of procuring opinion or expert evidence has not been flattering, either to the legal or medical profession. Some of the severest strictures have been made by judges of the highest courts For instance, Judge Earl, of the Court of Appeals of New York, in the case of Ferguson vs. Hubbell, 97 N. Y., 514, says:

"A long time ago, in Tracy Peerage (10 Cl. & Fin., 154, 191) Lord Campbell said that skilled witnesses came with such a bias on their minds, to support the cause in which they are embarked, that hardly any weight should be given to their evidence. Without indorsing this strong language, which is, however, countenanced by the utterances of other judges and some text writers, and believing that opinion evidence is in many cases absolutely essential in the administration of justice, yet we think it should not be much encouraged and should be received only in cases of necessity."

Judge Peckham, in Roberts vs. N. Y. E. R. R. Co., 128 N. Y., 464, uses this language:

"Expert evidence, so-called, or, in other words, evidence of the mere opinion of witnesses, has been used to such an extent that the evidence given by them has come to be looked upon with great suspicion by both courts and juries, and the fact has become very plain that in any case where opinion evidence is admissible, the proper kind of an opinion desired by any party to the investigation can be readily procured by paying the market price therefor."

The best men, both in the medical and legal professions, have struggled for years with the question of expert testimony, yet little progress has been made, especially in this country, on this subject. In France the court may order an investigation and report by experts whenever it deems it advisable. If the parties cannot agree upon the experts, the court appoints them. They are at least three in number and are generally, though not necessarily, selected from a list of specialists termed "experts assermentes." The order directing the investigation contains a statement of its precise objections and appoints a referee or juge commissaire. Barristers or avocats

are not allowed to appear before the experts, but the parties are represented before them by solicitors. The report must be signed by all three of the experts and if there be a dissent, the dissenting opinion and the reasons for it are set forth in the body of the report. The judges, however, are not at all bound by the report, if it is opposed to their conviction.

In Germany, under the code of civil procedure, after the issues are framed on which expert testimony is sought, the parties may agree upon the experts and the court appoints those agreed upon. Sometimes the court submits to the parties the names of a number of experts and allows each side to object to a certain number of them and then appoints those remaining.

In Prussia, it is the custom to appoint a physician and surgeon for every county and an appeal lies to a medical college in each province, if the experts disagree or the parties desire it. There is also an appellate commission for the whole kingdom.

Several of the medical societies of Chicago recently appointed a joint committee of 18 reputable physicians to draft a bill which was presented to the legislature of Illinois and which was backed by the recommendation of the State Medical Society of that State. The chief provision of that bill was:

"That the Judges of the Circuit and Superior Courts of the State of Illinois be and the same are hereby authorized to appoint in the month of January in each year, persons who shall act as expert witnesses in the medical and other sciences in giving opinion upon the evidence as presented in a hypothetical form on criminal causes that may be on hearing in the courts presided over by the said judges. Said expert witnesses shall hold their said appointments for one year or until their successors are appointed and qualified. * * * When expert opinion is desired in any cause pending in a criminal court, the trial judge presiding in any such case may, at his discretion, summon for duty under this act, such expert witnesses to the number of three. Such expert witnesses shall be paid for their services by the county in which the trial for which they are summoned is held in such sums as may be named by the judge."

The experts are subject to cross-examination of both the prosecution and defense, but the cross-examination is limited to the subjects embraced in their opinion.

An attempt has also been made in Pennsylvania to pass a statute on the subject of expert testimony. The act calls for the appointment of one or more experts by the court. Said appointment is only to be made by petition of one or the other parties to the suit. The experts are chosen by the court either from names selected by the parties to the suit or by the judge himself. The wholesome provision of this act is that the experts shall not, under penalty of fine and imprisonment, make known their opinions to either party or to any person before the trial.

Attempts have been made to secure some legislation on the question of expert testimony in the State of New York, but thus far without success.

Your committee has been impressed with the thoroughness of the investigation in this matter of Dr. Herdman, as set forth in his able paper above referred to, and we agree with him upon the following propositions:

(1) That experts should be appointed by the trial judge.

(2) That their compensation should be made a part of the expenses of the court.

(3) That they should have abundant opportunity to investigate all the facts of the case on trial as far as they have a bearing upon the opinions they are expected to deliver.

(4) That their opinion should be given to the court in writing, signed and sworn to and that the cross-examination should be limited to the matters brought uot in the examination in chief.

Your committee recommends that a short, concise bill be drafted by a committee to be appointed by this Association looking to the passage by the legislature of a suitable bill relative to expert medical testimony on these lines.

Respectfully submitted,

MICHAEL BRENNAN,
THOMAS A. WILSON.

REPORT OF THE COMMITTEE ON GRIEVANCES.

By C. W. Perry, of Clare.

Mr. President and Gentlemen of the Association:

The Committee on Grievances beg leave to submit the following report:

At the time of the last annual meeting the former committee reported that it had upon invstigation recommended that the matter of Lant K. Salsbury, of the Kent bar, be brought by petition to the attention of the Supreme Court. Since the time of that report a hearing has been had upon such petition and an order was made by the court disbarring the respondent because of professional irregularities and misconduct.

At the time of the former report the committee had also the matter of another member of the bar of the state before it and the present committee has endeavored to proceed with the investigation commenced by the former committee, but up to the present time it has been unable to learn sufficient of the case, or to get the evidence in proper shape to enable it to make a recommendation that the matter be brought before the court. Much of the evidence is in the State of California and your committee has been able to gather it very slowly at best because of the distance and the necessity of conducting its work through an attorney there, who does not take the personal interest in the matter the committee desires him to.

The committee can only report progress at this time and will pass all evidence so far collected to the next committee, and we believe the new committee will be able to proceed with the investigation and in time report intelligently upon the matter; and we advise that if such committee finds upon a full investigation such conduct in the attorney as will warrant a judicial inquiry, that measures will be taken to bring him before the Supreme Court.

These are the only cases that have come to the knowledge of the committee, and practically cover the work so far done during the year.

Your committee desire to request the co-operation of the members of the bar in furnishing us such information as will enable the committee to do more effective work. As the bar are generally slow to complain of members of the profession who are guilty of professional misconduct if the members of the bar would bring to the attention of the committee matters which in their judgment demand investigation, it will always be appreciated and the committee will always be ready to give all such matter due consideration.

Such a course would relieve the bar from taking the lead in such matters, individually, and still place the committee in a position to accomplish much in weeding corrupt men from the profession, and in elevating the bar to a higher plane of professional honor.

Much good in the opinion of the committee can be accomplished if the members of the profession will be earnest in their effort to aid it, but unless the committee can be assisted by the profession but little can be accomplished.

The desire of this Association to elevate the standard of the bar leads your committee to believe that the individual members will become more and more impressed with their duty in this direction, and that their co-operation will enable the grievance committee to become a means of raising the bar to a higher plane of prfoessional character, as its founders designed it should.

All of which is respectfully submitted.

C. W. PERRY,
Chairman.

REPORT OF MEMORIAL COMMITTEE.

By Thomas A. E. Weadock, of Detroit.

Mr. Chairman and Gentlemen: At the meeting at Grand Rapids in 1902 I made a motion with reference to the appointment of a committee to present suitable resolutions on the death of an esteemed member of the bar who had died within the year preceding that time, and after it was carried a larger committee was appointed, charged with the duty of reporting suitable biographical sketches of all the members who had died—Messrs. Pratt, of Kalamazoo; Wanty, of Grand Rapids; Smith, of Ionio, and Taggart, of Grand Rapids.

The residence of the different members of the committee being so far apart it has not been convenient for us to meet before the time of this meeting, and there has not been opportunity or time since the meeting began, so that what I shall submit now will be brief and oral, and the committee hope to have a meeting and submit their report hereafter.

The members of the Michigan State Bar Association who have died are:

Hon. John Atkinson.....Detroit
Hon. O'Brien J Atkinson...Port Huron
Judge of St. Clair Circuit.
F. W. H. Chambers.....Detroit
Judge of the Recorder's Court.
Judge John W. Champlin.....
.....Grand Rapids
Late Justice of the Supreme Court.
Lemuel Clute .....Ionia
Hon. Edwin F. Conely.....Detroit
A. D. Cruickshank.....Charlevoix
L. P. Eddy.....Grand Rapids
J. B. Eldredge.....Mt. Clemens
John H. Fedewa.....St. Johns
N. A. Fletcher.....Grand Rapids
George Hayden .....Ishpeming
J. G. Hawley.....Detroit
F. W. Hunter.....Grand Rapids
Hon. B. W. Huston.....Vassar
Late Attorney General of Michigan.
Jay P. Lee.....Lansing
Hon. Charles D. Long.....Lansing
Justice of the Supreme Court.
J. W. McMath.....Bay City
Frank H. Peters.....Manistique
Arthur R. Rood.....Grand Rapids
F. G. Russell.....Detroit
Francis Smith .....Muskegon
C. H. Thrall.....Big Rapids
Guy B. Thompson.....Detroit
Hon. Edwin F. Uhl.....Grand Rapids
Hon. Samuel W. Vance.....Port Huron
Judge of St. Clair Circuit.
John Ward .....Detroit
Carlos E. Warner.....Detroit
Lewis C. Watson.....Detroit
Hon. Frank Whipple.....Port Huron
Judge of St. Clair Circuit.
Hon. J. W. Babbitt.....Ypsilanti
Probate Judge of Washtenaw.
Hon. S. M. Cutcheon.....Detroit
Seth Bean .....Adrian
Thomas M. Crocker.....Mt. Clemens
William P. Evans.....Pentwate.
N. A. Fletcher.....Grand Rapids
S. G. Higgins.....Saginaw
Oscar Adams .....
Ex-Judge of Cheboygan Circuit.
J. W. Dust.....Ionia
Hon. George H. Durand.....Flint

As the hour is late, I will only refer to three of these gentlemen: Judges Charles D. Long and Geo. H. Durand, of Flint, and Hon. Edwin F. Conely, of Detroit.

The lawyers of Michigan were especially glad to see Judge Long take his place upon the supreme bench, and the reason that many of them gave was that Judge Long was a lawyer. They did not mean by that that there were not other lawyers upon the supreme bench, but that Judge Long's associates had all gone to that position from the circuit bench, and Judge Long went from the full general practice of his profession, with a full, complete and recent knowledge of the rights, duties, afflictions and trials of a practicing lawyer; and upon the bench he retained that natural and singularly pleasing way he had acquired in his practice. I think it must be agreeable to the State Bar Association that they should chronicle his good deeds, preserve the memory of his fairness and ability, and his name should be perpetuated upon their records. In the judgment of the committee, a brief sketch of our departed brethren should be printed in the proceedings, that we may determine for oursleves what our judgment may be of them.

Judge Long's career is tolerably well known to all the members of the profession. He was born June 14, 1841, on a farm in Grand Blanc, Genesee county, a county which has furnished many good lawyers to the State, and a county to which we were recently called to mourn the death of one of the most able lawyers of this State, an accomplished gentleman, one of the most sterling and patriotic citizens; a man who

in his brief term upon the supreme bench of Michigan served his State creditably and was an honor to the profession and the State of his adoption. That man was one we very much regarded, Hon. Geo. H. Durand, of Flint.

Charles D. Long prepared himself in the district school for the high school, expecting that training to be followed by a university course, and when the time came for him to enter the university, his country called upon him to enter the army, and in August, 1861, he enlisted in the Eighth Michigan Infantry, commanded by Col. Fenton, and went to the front. Within a year, at the battle of Wilmington Island, Georgia, April 16, 1862, he lost his arm and was shot through the body, receiving a terrible wound which he suffered from all his life afterward, and which ultimately caused his death. Upon being mustered out for disability he returned to Flint, was elected county clerk and served in that office eight years. During that time he read law and was admitted to the bar. Then for six years he was prosecuting attorney, and held various positions of trust. He was Commander of the G. A. R. of Michigan and in 1893 took his position upon the bench of the Supreme Court, which place he held until his death, at Detroit, June 27, 1902.

HON. EDWIN F. CONELY.

I desire to say at this time a few words in regard to Edwin F. Conely. I knew him for thirty years. I think that taking him all in all he was one of the fairest and best practicing lawyers that I have known in the State of Michigan. Born in the City and State of New York, coming of an old revolutionary stock from Massachusetts and Maryland, and having been brought to Michigan in his early years, he was educated in our schools. He read law in Howell and Jackson and had a year, '69-'70, at the University law school, and in that same institution some years afterwards he was one of the professors of law. He resigned that position only for the reason that his practice was such that he could not devote the necessary time to it. In the City of Detroit, where he made his home from about the year 1870, he tried cases upon almost every phase of the law. In the main, however, his general common law practice and the trial of cases was the field in which he especially excelled.

His work is found in more than one hundred volumes of the reports of the Supreme Court of the State of Michigan, and they involve some of the most important questions that ever received the attention of that tribunal; and in the "Constable case" (Allor v. Wayne Co.) the opinion of the court is practically the brief of Edwin F. Conely. Those who knew him well, those who knew his wonderfully clear and succinct and powerful way of stating a case, knew his logical and fair way of arguing cases, knew his courtesy and sociability towards every man with whom he was brought in contact, knew of his uniform assistance and kindness to the younger members of the bar, who knew him in possession of his full powers, will long remember him as one of the noblest, brightest, ablest and best lawyers of the State, a brave man always, always willing to do whatever work came to him, regardless of whether it was popular or profitable.

I remember the last conversation I had with him shortly before he underwent the surgical operation which ended in his death. He was as brave about it as a man might well be, and he quoted then from his favorite author, Shakespeare, the words of Hamlet to Horatio before the duel with Laertes: "If it be now, 'tis not to come; if it be not to come, it will be now; if it be not now, yet it will come; the readiness is all." Edwin F. Conely had that readiness to die, and his name will long be remembered as one of the model lawyers of the Michigan bar.

Availing myself of the permission given by the Bar Association to add to the oral statements such additional information as I thought interesting to the bar of the State, I submit in fuller detail the career of our departed brother.

Edwin Forrest Conely was born in New York City September 7, 1847; died at Detroit, April 20, 1902.

Mr. Conely had attained but 54 years. Those 54 years, however, were busy years, and few men have accomplished as much in endeavor and performance, in both public

and private service, in a similar period of time. He reached the highest rank in his profession, and yet found time to take an active and notable part in politics; to attain distinction in the state military service; to give the city a most efficient administration of its police department, and to fill a chair in the law school of the State university. Mr. Conely's father came to Michigan, where he had acquired a large tract of land, in the early '50s, and young Conely learned to be a practical farmer. He attended school in New York City and Brighton and Jackson, Mich., and supplemented school instruction with extensive lines of private study. He studied law in the offices of Sardis F. Hubbell, of Howell; Olney Hawkins, of Ann Arbor, and D. B. & H. M. Duffield, of Detroit, and attended the University of Michigan law school. In 1870 he removed to Detroit and was admitted to the bar in the old Supreme Court.

Mr. Conely formed a law partnership with Mayor Maybury in 1872, under the title of Maybury & Conely, and through that association Mr. Conely became in after years the loyal supporter of Mr. Maybury in the latter's congressional aspirations. The partnership with Mr. Maybury was terminated in 1882, when Mr. Conely was induced to take the superintendency of the police department. He reorganized the department throughout, bringing it up to a high standard of efficiency, brought about the building of the present headquarters and central station and the installation of the patrol wagon and police telegraph systems. He also gave his legal skill and services to the department and appeared for it in a large number of habeas corpus proceedings. He secured in the Supreme Court, at the request of the late Judge Swift, the affirmance of the conviction of Wilson, the murderer of Patrolman Alonzo Bullard.

He retired from the police superintendency in 1885, and resumed the practice of his profession, which he continued until a few days before his death. He was a professor in the University of Michigan law department in 1891-3, and resigned because of the increasing demand made upon his time by his private practice. He practiced law in Detroit continuously until the time of his death, his practice including every branch of the law, and he especially excelled as counsel in the trial and argument of cases. His work may be found in more than one hundred volumes of the Supreme Court reports of the state, and among the most notable are the following: The Constable case, constitutional law; Gott vs. Culp, probate law; R. R. Co. vs. Gilbert, liability of corporation for employment of agent; Carew vs. Matthews, conflict of jurisdiction; Davis vs. Burgess, breach of the peace; People vs. Wilson, murder; People vs. Fonda, jurisdiction of federal courts; Klanowski vs. Grand Trunk Ry. Co., speed as evidence of negligence; Wheaton vs. Beecher, libel; Holcombe vs. Noble, innocent false representations as evidence of fraud; Robinson vs. Miner & Haug, constitutional law; People vs. Montague, habeas corpus and extradition; Weeks vs. Wayne Circuit Judge, lien of attorney on verdict; Estate of Mabel Ward, liability of guardian; Attorney-General vs. James, quo warranto; Laffrey vs. Grummond, liability of warehouseman; McAllister vs. Free Press, libel; Latimer's case, murder; Clark and Graham's case, murder; People vs. Walsh, manslaughter; Finnigan vs. Free Press libel; Strohbridge Lith. Co. vs. Randall, effect of settlement; Brown vs. McGraw, logging and lumbering case; Park Commissioners vs. Common Council, constitutional law; Wellman vs. Police Board, power of police commissioner; People vs. Fort Wayne & Elmwood Ry. Co., constitutional and municipal law; McRae vs. Ry. Co., constitutional law and railroad building; Baron vs. Detroit, liability of city as a proprietor; Coffin vs. Election Commissioners, right of women to vote; Down vs. Harper Hospital, liability of trust fund for claims of negligence of trustee; Campbell vs. Wyandotte, law of municipalities; Fort St. Union Depot Co. vs. Penin. Stove Co., constitutional law; Atty. General vs. Supervisor, constitutional and statutory law; Metcalf vs. Tiffany, liability of female defendant for alienation of husband; Moran vs. Moran, fraud as the basis of ejectment; Merz Capsule Co. vs. McCutcheon, monopoly and public policy; Richardson vs. Medbury, accounting.

Politically Mr. Conely was a democrat. He was elected as a member of the legislature in 1886 and was the democratic nominee for speaker of the House, serving as a member of the judiciary committee. He was a delegate to the democratic national

convention in 1880, where he advocated the nomination of Mr. Tilden, and was also a delegate in 1892. During the campaign of 1896 he supported the national democracy as against the platform and nominees of the Chicago convention, and he was one of the orators at the sound money banquet given by the democrats of Chicago on Jackson's day in 1897.

He served as a member of the Board of Water Commissioners of Detroit in '85 and from '90 to '96 was a member of the Board of Library Commissioners. In '93 he was named by Gov. Rich as a member of the state commission to frame a general law for municipalities. In 1881 he received the nomination in the democratic city convention for recorder, and made a good run against Judge Swift, who, although also a democrat, was put on the ticket by the republican city convention and re-elected.

He took an active interest in the Michigan State troops and was connected with them for 13 years, serving as a private, corporal, captain of the Detroit Light Infantry, colonel, and president of the State Military Board. He was instrumental in securing valuable legislation for the benefit of the state militia.

Mr. Conely was initiated into all the Masonic grades, having held membership in Oriental lodge, F. & A. M.; Peninsular Chapter, R. A. M.; Monroe Council, R. & S. M.; Michigan Sovereign Consistory; Moslem Temple, Nobles of the Mystic Shrine, and Damascus Commandery of Knights Templar.

He was a member of the American Historical Society, the Michigan Political Science Association and American and Michigan Bar Associations. He was a member of St. Paul's church and for several years served as a vestryman. He was president of F. A. Thompson & Co. and vice-president of the Home Savinps Bank

He was a gentleman of varied culture, a forceful writer and speaker and had traveled extensively both in Europe and America. He was twice married, his first wife being Miss Achsa W. Butterfield, who died in February, 1878, and he married a second time in 1882, and his wife survives him. He had no children.

HIS FUNERAL IN ELMWOOD.

Borne by six police captains, and followed by sorrowful friends from every walk of life, the remains of Edwin F. Conely were borne to their last resting place in Elmwood cemetery. There was no show or ostentation about the funeral services, but, as his life had been and as he would have wished, the last rites were performed in a simple yet impressive and solemn manner. The chancel drapings of St. Paul's Episcopal church, where the services were held, were completely hidden with beautiful floral tokens, sent by loving friends, and the casket was encircled with a garland of American Beauty roses. Long before time for the services the church began to fill up with people who were intimately acquainted with Mr. Conely either professionally or socially, and others who had been helped by him in their hour of trouble, and by the time the cortege arrived, the church was crowded to the doors. One side of the edifice was occupied entirely by members of the bar.

Rev. Rufus W. Clark, rector of St. Paul's, conducted the services at the church and the grave, and delivered a prayer at the residence shortly before the funeral procession started. A marked feature of the obsequies was the omission of all singing, the only music being a rendering of one stanza of "Abide With me," on the organ

During the morning the remains lay in state at the family residence, 37 Davenport street, when hundreds of friends called. The pall-bearers were the following police captains, who had served under Mr. Conely when he was superintendent of the police department: Captains Alphonso Baker, C. C. Starkweather, Jesse Mack, A. H. Bachmann, William Thompson and E. F. Culver. At the head of the casket walked Superintendent John J. Downey. The honorary pall-bearers were as follows: Ashley Pond, William A. Moore, Elisha H. Flinn, Emory Wendell, Dr. H. O. Walker, Don M. Dickinson, Otto Kirchner, Gen. Henry M. Duffield, Col. August Goebel, Charles A. Kent, John C. Donnelly, Theodore H. Eaton, Joseph H. Berry, C. J. Reilly, William J. Chittenden, DeForest Paine, Ralph Phelps, Jr., Alexander Lewis, Ellwood T. Hance Hon. H. H. Swan, L. R. Meserve, Edmund Haug, Dr. J. E. Clark, Thomas A. Wilson

(Jackson) Fred T. Moran, E. H. Doyle, W. G. Smith, Walter S. Harsha, D. J. Camp
John S. Conant, N. W. Goodwin, William E. Quinby, Gen. L. S. Trowbridge, Jam
H. Pound, William J. Gray, James H. Stone.

I desire to add, in advance of its publication in the reports, the Conely memor
presented to the Supreme Court.

On June 3, 1902, at the opening of the Supreme Court the memorial adopted by t
Wayne county bar upon the death of Edwin F. Conely was presented by Otto Kirchn
with the request that it be spread upon the records of the court. In presenting t
memorial Mr. Kirchner said:

"I deem it a privilege to bear testimony to the fidelity of the memorial. In the pa
thirty years I have come in frequent contact with him as associate as well as oppo
ing counsel. I knew him well. He was an able man. He was strong and forceful
not only because he was generously endowed by nature and because he was learne
as well as industrious and painstaking in all that he undertook, but because h
brought to the discharge of his high duties an honest and fearless mind. The hone
man was, in him, the broadest and surest foundation of the great lawyer. Both as a
associate counsel and as an adversary in the courts, he had gained the admirati
and good will of his professional brethren. He possessed the unqualified confidence
the judges before whom he practiced. The quality of his mind was perhaps mo
obviously manifested in the precision and clearness with which he presented his cas
His tremendous power of statement, not exceeded by any of his contemporaries, wa
to my mind, his most distinguishing, and, at the same time, his most distinguishe
characteristic as an advocate. He was a sincere lover of justice. No one will doub
it who ever had occasion to adjust with him matters out of court.

"Devoted as he was to his profession and all that pertained to it, he yet foun
time to cultivate letters and the fine arts. He was familiar with Italian and Germa
He spoke and wrote French faultlessly. He had been an extensive traveler—for plea
ure to be sure; but not for that alone. He was a constant learner and gleaned know
edge wherever it could be found. In his travels as well as in his literary and lin
guistic pursuits he had a well-defined purpose. He had hoped to round out his caree
in the field of diplomacy. Much of his reading was devoted to that end.

"He has passed away from us in the zenith of his power and usefulness at a tim
when his future seemed big with promises of achievements. Instead of these ther
have been opened to him, let us hope as he hoped and believed, vistas that are th
substance of things hoped for; the evidence of things not seen. He has left a fragran
and grateful memory; and the mound that covers his earthly remains is watered b
the tears of his friends.

Mark Norris, President of the State Bar Association, also paid a high tribute t
the character of the deceased lawyer, and Hon. Don M. Dickinson spoke with eloquen
fervor of the characteristics and virtues of his dead friend. George W. Weadock, o
Saginaw, also made a few remarks, and Chief Justice Hooker, in accepting the memo
rial and ordering it spread on the records of the court, said that no attorney had
more marked individuality or exerted a more healthy influence on the bar than Edwi
F. Conely. There was a large number of attorneys present at the opening of th
court and they were all deeply affected by the eloquent words of eulogy spoken.

THOMAS A. E. WEADOCK.

HON. JOHN W. CHAMPLIN.

John W. Champlin was born in Kingston, Ulster county, New York, February 17
1831. He was of English descent, his ancestors being amongst the early settlers of
Connecticut. His boyhood was spent on his father's farm and in attendance at the
village school. His early ambition was to become a civil engineer, which he did,
completing his studies in the Delaware Institute. He practiced this profession for
two years. He came to Michigan in 1854 and commenced the study of law, being
admitted to practice in 1855, which practice continued for twenty-eight years, when
he was elected a justice of the Supreme Court of Michigan.

As a lawyer he was able, broad-minded and of the highest integrity; his term on the bench, which lasted eight years, was one of hard, conscientious work.

Upon his retiring from the Supreme Court he again resumed his practice. He lectured for five years at the Law School at Ann Arbor.

He died at his home in Grand Rapids on the 24th of July, 1901.

Appropriate resolutions were presented to the Supreme Court and adopted at the opening of the October term, 1901, and are reported in 127 Mich., page 35.

HON. EDWIN F. UHL.

Edwin F. Uhl was born at Rush, near Avon Springs, in the State of New York, August 14, 1841. He came to Michigan in 1844 with his parents, and was brought up on a farm near Ypsilanti. He received his education in the public schools in Ypsilanti and the University of Michigan. He commenced the study of law in Ypsilanti and was admitted to practice in 1864. In 1866 he entered actively upon the practice of his profession as a member of the firm of Norris & Uhl. In 1871 upon the removal of Mr. Norris he associated himself with Mr. Albert Crane. He also served the people of Washtenaw county well in the office of prosecuting attorney. Mr. Uhl removed to Grand Rapids in 1876 and was again associated with Mr. Norris, the firm continuing for eleven years, when he again entered into partnership with Mr. Crane, this firm continuing until 1893, when Mr. Uhl accepted the position of Assistant Secretary of State of the United States, which office he held until February, 1896, when he was appointed ambassador plenipotentiary of the United States to the German Empire. He returned to Grand Rapids in December of '97 and resumed his law practice as a member of the firm of Uhl, Hyde & Earle, and also was a member of the firm of Uhl, Jones & Landis, of Chicago. Owing to the strain on his already overworked system he was forced to withdraw from the Chicago firm and later from the Grand Rapids firm.

He was chosen president of the Grand Rapids National Bank in 1881, which position he held until his removal to Washington as Assistant Secretary of State. He was twice elected mayor of the city of Grand Rapids, during 1890-91, was president of the Grand Rapids Board of Trade; he was the organizer and first president of the Peninsular Club, and was prominently identified with the commercial and social interests of Grand Rapids.

He died at his country home, "Waidheom," near the city of Grand Rapids, May 17th, 1901.

COL. JOHN ATKINSON.

Col. John Atkinson was born at Warwick, Lambton county, Canada, May 24th, 1841. Both his parents were born in Ireland and came to America in 1832. The family moved to Port Huron in 1854.

Col. Atkinson commenced the study of law in 1857, and graduated from the University of Michigan in 1862, being admitted to practice on the day of his attaining his majority. After graduation he became the partner of Hon. William T. Mitchell, of Port Huron, but in response to the call for volunteers he organized a company and entered service as a captain. On October 13th, '64, he was promoted to the rank of lieutenant colonel of the Third Michigan Volunteers, with whom he served until being mustered out in 1866. After taking part in the battles of Franklin and Nashville the Third joined the Army of the Cumberland and participated in nearly every battle of the fall of '64 up to Johnson's surrender. They were detailed to New Orleans and Texas in '65 and were mustered out in Texas in '66. At the close of the war he returned to Port Huron, where he was appointed collector of customs by President Johnson, but for political reasons his appointment was not confirmed by the Senate. He then began the active practice of his profession.

He removed to Detroit in 1870 and was connected with the law firms of Trowbridge & Atkinson, Atkinson & Hawley, Atkinson & Atkinson, Marston & Atkinson, Atkinson, Carpenter, Brooke & Haigh, and Atkinson & Haigh.

As a lawyer he was one of the best equipped all around lawyers of the State.

The foundation of his legal education was laid broad and deep. He grasped and comprehended the philosophy of justice.

As a politician he possessed many qualities of leadership and became especially prominent as political adviser and champion of Gov. Pingree. His advocacy of the Pingree railroad bill, opposed by the ablest railroad attorneys of the state, was a remarkable and brilliant argument.

A fellow-member of this Association (Hon. Alfred Russell) speaking of his political apsirations, said: "I am sure that while he was a great lawyer, his desire was to become a famous orator and statesman. Had he lived in the last century, his fame would have been equal to that of Grattan and Pitt."

He was greatly interested in Irish National affairs, making several trips abroad to confer with Charles Stewart Parnell, who esteemed his counsel and recognized his worth.

Former Attorney General Maynard speaking of his personality, said: "He was a man who would grace any position and be a leader in any body of men with whom he might be associated. In spite of his eminent qualities he was so sweet and kindly and gentle in his manner that he left no impression upon anyone that he personally felt and recognized his own superiority. No man could excel him in repartee; his wit sparkled like champagne." He died at Detroit, August 14th, of neuralgia of the heart.

CARLOS E. WARNER.

Carlos E. Warner was born in Orleans, N. Y., October 5th, 1847. His ancestors were of English descent and emigrated to America about 1630, settling in Massachusetts.

His early education was received in the Canandaigua Academy, after which he spent a year teaching. He began the study of law in 1867, in the office of J. P. Faurot in Canandaigua, and in 1869 was admitted to the bar.

He came to Detroit in 1872 and entered the offices of Moore & Griffin, later becoming a member of the firm. Upon the withdrawal of Mr. Griffin the firm was reorganized as Moore, Canfield & Warner, but in 1883 Mr. Warner withdrew and again associated himself with Mr. Griffin, the firm being known as Griffin & Warner. In January, 1888, the firm became Griffin, Warner, Hunt & Berry, but on the retiring of Mr. Berry, and the appointment of Mr. Hunt as assistant prosecuting attorney, the firm was again known as Griffin & Warner. In January, 1896, the firm of Griffin & Warner was dissolved and the firm of Warner, Codd & Warner organized, Mr. Warner being the senior member.

His private practice was very extensive. He was attorney for the Detroit Chamber of Commerce and one of the incorporators of the Sandwich, Windsor & Walkerville Street Railway at Windsor.

He served two terms on the Board of Education, being chairman of the board during the two years of his last term. He was chairman of the Democratic Congressional Committee for the first Michigan district in 1894-5, and in 1896 was a member of the Democratic State Central Committee.

He was a member of the Woodward Avenue Baptist church, and of several benevolent societies. He was also a member of the Detroit Club and the Detroit Athletic Club.

Among the profession he was regarded as a very able lawyer, possessing a keen, analytical mind, aided by many years of close study.

N. A. FLETCHER.

Niram A. Fletcher was born at Oakland, Brant county, Ontario, February 13th, 1850. He received a common school education and afterward taught school in Hamilton for two years. He came to Michigan and was admitted to practice in 1873. He at once took a leading place at the bar and had a clientele who had unbounded faith in him. He was a tireless worker and his quick success was attributed to his complete knowledge of the common law. He died August 15th, 1899.

JOHN G. HAWLEY.

John Gardner Hawley was born in Detroit, March 21, 1845. He was educated in

the public and private schools of Detroit and Toronto, and later supplemented this by a tour in Europe. Upon his return he was associated with his father in his business until the summer of 1866, when he went to Hiram, O., to take a course preliminary to entering the ministry. In the fall of the same year he entered Bethany College, W. Va., and received a degree of A. B. in 1870. He visited Europe again in 1870 in company with his wife and sisters, and upon his return decided upon the law as his profession. He denied himself the advantages of a law school and procuring the necessary text books secluded himself and began his studies. He passed his examination for the bar successfully on barely six months' study, and was admitted to practice.

He edited the first three volumes of "American Criminal Reports," was the author of "Law of Arrest," "Law for Land Buyers," "Law for Tenants," "Inter-State Extradition," "International Extradition," and, with Mr. Malcolm McGregor, "Criminal Law."

He served one term as prosecutor for the county of Wayne, and was attorney for the police department up to a short time before his death. He was a member of the faculty of the Detroit College of Law, and delivered a course of lectures at that institution on criminal law. He died at Detroit, August 17, 1900.

JOHN H. FEDEWA.

John H. Fedewa was born in the township of Dallas, Clinton county, Mich., May 8th, 1849. His parents were natives of Germany, emigrating to America in 1842.

His early education was a meagre one. He attended the district school of the village of Westphalia, the German school of that place, and the high school of St. Johns. Upon finishing at the high school he worked at the carpenter's trade and afterward taught school. He entered the University of Michigan and graduated from the law department in 1872.

At the age of twenty-five he was elected prosecuting attorney for Clinton county, which position he held satisfactorily for eight years. Mr. Fedewa took an active interest in politics, being a delegate to the Democratic National Convention in 1892 at Chicago; a member of the Democratic State Central Committee, and for many years chairman of the Democratic County Committee of his own county.

Mr. Fedewa was married on November 27th, 1876, to Lizzie Petch and five children were born to them, three of whom survived their father. He died January 27th, 1901.

HON. S. M. CUTCHEON.

Sullivan M. Cutcheon was born in Pembroke, New Hampshire, October 4th, 1833. He died April 18, 1900, at Detroit

He was graduated from Dartmouth College in 1856, after completing a full classical course. Upon leaving college he became principal of the Ypsilanti high school, and remained there until the fall of 1858, when he removed to Springfield, Ill., to become superintendent of schools at that place.

While in Springfield, Mr. Cutcheon formed an intimate acquaintance with Abraham Lincoln, and it was here he began the study of law. He returned to Ypsilanti in 1860 and entered upon the practice of his profession. During the same year he was elected to the legislature, and re-elected four times, being speaker of the house during '63-'64. He was a member of the state military board and was also bank examiner for several years. He was appointed by Gov. Bagley in '73 a member of the constitutional commission and elected chairman by his fellow-members, the object of the commission being to revise the State constitution. Their work was not adopted by the people.

Mr. Cutcheon located in Detroit in 1875 and in 1877, by the appointment of President Hayes, he became United States Attorney for the Eastern District of Michigan, which office he held for four years.

In politics he was a republican and was chairman of the Michigan delegation to the National Convention at Chicago in 1868, which nominated Gen. Grant for the presidency.

He was president of the Dime Savings Bank, a trustee of both Harper Hospital and Olivet College, and a director in several corporations.

At the time of his death he was head of the firm of Cutcheon, Stellwagen & MacKay, of Detroit.

THREE CONSTITUTIONAL QUESTIONS DECIDED BY THE FEDERAL SUPREME COURT DURING THE LAST FOUR MONTHS.

By Hon. Alfred Russell, of Detroit.

Mr. Russell:Mr. Chairman and Gentlemen of the Bar Association—When the President desired me to read a paper I consented upon condition that he would throw open for discussion the various topics which I should present. I have noticed in former years that there has not been very much interest displayed in the proceedings of this bar, and upon one or two occasions when topics had been considered by the Supreme Court and they have been thrown open for oral discussion afterwards, I have observed that additional interest was created; and I hope that after I have completed my short paper, please notice that I hope that all gentlemen here who feel interested in these topics will take part in the discussion; for the topics are such that it seems to me will create an interest in every one. I stand down here because I have noticed that this room, like all rooms that are built expressly for speaking, has very poor acoustic properties. There is an echo, and it is difficult to hear in the rear part of the room.

Three cases of extraordinary interest, and of far-reaching consequences, have been decided at the present term of the Federal Supreme Court, and within four months past.

The court has unfolded a vast power wrapped up in the commerce clause of the constitution. It has been decided that the power to regulate commerce among the states included the power to prohibit commerce among the states. The court has made a clear path for the southern doctrine of a white man's government. It has declared that the fundamental rights of life and liberty depend on the will of congress in some parts of our jurisdiction, and not on the guarantees of the Constitution of the United States.

Instead of threshing over the old questions concerning the future of the profession, the relief of the Supreme Court and the like, I have selected these cases for a few observations.

The Federal Supreme Court, during a large part of its history, now a long one, has been engaged in the difficult and unprecedented task of making a written constitution workable; and, as a result, they have frequently found it necessary to consider that instrument as statesmen, and not as lawyers, and to decide questions according to views of policy, rather than of literal interpretation. If time permitted, it would be an inquiry of great interest to take up some instances of this suggestion; but in order to be brief, I must proceed at once to the three cases I have referred to.

First—Champion vs. Ames. On the 23d of last February, the question of the constitutionality of an act of Congress for the suppression of lottery traffic through national and interstate commerce and the postal service, subject to the jurisdiction and laws of the United States. Two points were involved:

1. Is the transmittion of lottery tickets by express commerce?
2. Does the power to regulate include the power to prohibit?

A Mr. Champion has been indicted in the Federal Court in Texas for conspiring with other persons to cause to be carried from Texas to California, certain certificates or tickets, which by lot and chance might draw a prize at the monthly drawing of the Pan-American Lottery Co., and it was alleged that in order to effect the object of the conspiracy, namely, the transportation of these tickets, they had deposited them with an express company, incorporated to carry freight and packages from one state to another. Mr. Champion was arrested in Chicago to compel his appearance in the Texas court, to answer the indictment, and he thereupon took out a writ of habeas corpus, upon the theory that the act of congress under which it was purposed to try him, was void under the United States Constitution. Mr. Champion insisted that the carrying of lottery tickets from one state to another by an ordinary express company, does not constitute, and can not by any act of congress be legally made to constitute commerce among the states; and that congress has therefore no power to make it an

offense to cause such tickets to be carried from one state to another. Upon the contrary, the government insisted that express companies, when engaged for hire in the business of transportation from one state to another, are instruments of commerce among the states; that the carrying of lottery tickets from one state to another, is commerce, which congress may regulate; and that, as a means to execute the power to regulate commerce between the states, congress may make it an offense against the United States to cause lottery tickets to be carried from one state to another.

Upon the contrary, the goverr ment insisted that express companies, when engaged for hire in the business of transportation from one state to another, are instruments of commerce among the states; that the carrying of lottery tickets from one state to another, is commerce, which congress may regulate; and that, as a means to execute the power to regulate commerce between the states, congress may make it an offense against the United States to cause lottery tickets to be carried from one state to another. I will here observe that within the last two or three days my attention has been attracted by an article written by Prof. Lyndell, of Hartford, Mass., in which he takes the ground that railroad and express companies are not instruments of commerce; which seems to be an extraordinary position.

The court remarked, speaking by that eminent lawyer and judge, who is assigned to this judicial circuit, Mr. Justice Harlan, that the questions presented by these opposing contentions are of great moment, and that they would first consider what is the import of the word "commerce" as used in the constitution, and proceed to take up the cases in the history of the court upon the subject, beginning with our old friend, Gibbons vs. Ogden, and coming down to Hanley vs. Kansas Southern Ry., in the 187 U. S. Reports.

From this review of the prior adjudications, it was shown that the word "commerce" is not limited to buying and selling, or to the interchange of commodities, but comprehends all intercourse. That the power to prescribe the rules by which commerce is to govern, vested in Congress, is complete in itself, and acknowledges no limitations, except those in the constitution. That the original states established the constitution principally from one motive,—a deep and general conviction that commerce ought to be regulated by Congress. It was also shown that bills of lading for gold and silver had been held to be articles of commerce, that rules for the admission of passengers into our ports had been upheld as regulations of commerce; that the transmission of intelligence by wire is intercourse, and consequently commerce, subject to congressional regulations; that tolls upon the transit of persons over bridges between states are subject to regulation by Congress; and the conclusion was on that part of the subject, that because lottery tickets are subjects of traffic they are subjects of commerce; and regulation of the carriage of such tickets between states is consequently a regulation of commerce.

The ground of the dissenting opinion of the Chief Justice is that the carrying of lottery tickets intended for sale or purchase is not commerce, because a lottery ticket is not an article of commerce, and cannot become so because placed in a covering and transported by an express company from one state to another. He says, rather sarcastically, that an invitation to dine, or to take a drive, or a note of introduction would become an article of commerce under the ruling of the majority, by being deposited with an express company for transportation; but I believe it has not been heard of that such articles have ever been carried by express.

The next point taken up was whether the authority given to Congress to regulate, amounted to authority to prohibit. That is an important part of the decision. On this it was said that no clause in the constitution could be cited which, in any degree, countenances the suggestion that the exercise of the power granted to regulate is limited; or that a citizen may have the right to carry from one state to another that which will do harm to its morals. In order to illustrate that regulation may properly assume the form of prohibition, the case of diseased cattle transported from

one state to another was referred to, and also the Sherman Anti-Trust Act, and also the Rehrer case, with reference to interstate transportation of liquor.

So the court decided, with four dissenting judges out of nine, that the power to regulate does not involve the power to prohibit interstate commerce altogether.

It has previously been decided that power to regulate commerce with Indian tribes involves the power to prohibit such commerce. This was the case in the United States vs. Holliday, 3 Wallace, 407, Miller Justice, page 416. That case arose in this state, and I framed the pleadings and argued the case below. In that case Congress had prohibited the sale of spirituous liquor to Indians within a state. It has never been doubted that Congress has power to prohibit foreign commerce, and it had been so held.

The Chief Justice bases his dissent on this part of the case, apparently upon the ground that in the act prohibiting the transportation of lottery tickets, Congress was not exercising its power to regulate commerce, but was making an enactment which was a portion of the police power to suppress interstate in an article injurious to the morals of the people; and he stated in substance that consequently this prohibition could not be sustained because it is a part of that police power which belongs to the states wholly, and does not belong to Congress at all.

But it seems to me that if the legitimate exercise of the power to regulate interstate commerce, be by prohibition of the transportation of some things, which might also properly be the subject of the exercise of the state police power, this circumstance does not in any way affect the validity of the congressional regulation.

The question whether or not Congress may prohibit interstate commerce was considered of such importance that this case was argued three times at different terms of the court. Few cases have undergone so thorough an examination.

Personally, I think the profession will approve generally the result of this case, because the decision is based upon a power expressly granted by the constitution; and, as Marshall held in the leading case, the commercial power like all others expressly vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the constitution itself.

Important consequences may flow from this decision—for example, it would seem to result that Congress may prohibit the transportation between states of goods manufactured in violation of the anti-trust laws. This would be an effectual method of killing the trusts. I think but few more important decisions than this have ever been made by the Federal Court.

This is the first case, gentlemen, and I now come to another, which is perhaps even more important.That is the case of Giles vs. Harris. It was decided by the new Justice for the New England Circuit (previous to his appointment chief justice of Massachusetts, a captain in the civil war and a legal author of repute; best known, however, as a son of a noted man of letters, Dr. Holmes). It was a bill in equity, brought by a colored citizen living in Montgomery county, Alabama, on behalf of himself, and more than five thousand other colored citizens of the county similarly situated, against the board of registrars of that county, praying that the board be required to enroll upon its voting lists the name of the complainant, and the others; and secondly, that certain sections of the new constitution of Alabama be declared repugnant to the 14th and 15th amendments of the United States Constitution. You will remember as a part of our political history that in the southern states with some exceptions, there had been enacted a "Grandfathers' constitution." I won't go into an explanation of that, for you have probably all read about it. And there was an attempt, and it would seem to be so far a successful attempt upon the part of some people in some of those states, to disfranchise some of its citizens, which was the result of the greatest civil war of all times.

The bill in general alleged that the white population of the state had so framed the constitution as to effect a wholesale fraud by excluding the black citizen from voting.

And it is undoubtedly a fact. It was said by the court, first, that the wrong complained of was a political wrong, and that the traditional limits of proceedings in courts of equity have not embraced a remedy for political wrongs.

It was said, secondly, that there were two other difficulties which the court could not overcome:

First—That the bill alleged that the whole registration scheme of the Alabama constitution ought to be declared void, as a fraud upon the United States Constitution, and prayed that it should be declared void; nevertheless, the complainant, it was said, asked to be registered as a party qualified under the void instrument. The court went on to hold that it could not order the complainant's name to be registered without holding the registration plan valid, which could not be done upon the allegations of the bill. That, I might observe, was a technical objection.

Second—That the court stated that it was alleged that there existed a conspiracy on the part of the State of Alabama to deprive colored citizens of the right to vote, and yet the state was not and could not be made a party to the bill, and also that the court could not deal with the people of the state aside from the state itself; that it could not supervise the voting in that state by officers of the court; and that, necessarily, relief from a political wrong done as alleged, by the people of the state, and by the state itself, must either be given by them, or by the legislative and political department of the government of the United States. Consequently relief was denied. There were three dissenting judges. Mr. Justice Harlan, dissenting, after discussing fully the question of jurisdiction at great length, concluded that jurisdiction existed, and that the complainant was entitled to the relief he prayed, and that it was competent for the court to give relief.

Mr. Justice Brewer, in his dissenting opinion, said that the case presented was such, that the court could and ought to grant the relief prayed, referring to several cases in which the general jurisdiction of Federal Courts over matters involved in the election of national officers had been affirmed, some of those cases very recent. He then held that the court had erred in dismissing the action for want of jurisdiction, because the right invaded, in the nature of things created a case arising under the constitution and laws of the United States. He concluded by saying, that the previous rulings of the court be considered decisive in favor of granting the relief asked.

The so-called "Negro Question," so far from being closed, seems to me to have just begun to be opened; but I think we will most of us agree that the Court was wise in not undertaking to determine the validity of the new policy of the white people of the southern states, by a court of equity. The question, as it seems to me, is too large for courts. When the Dred Scott case was decided, the judges of that day reached a different conclusion, and thought that the momentous question then before the nation could be, and was, settled by the Court. No greater mistake was ever made in judicial annals, and I think the existing bench has displayed wisdom and true statesmanship in holding the powers of the Court of Equity unequal to the emergency.

I remark that by the second section, the Fourteenth Amendment, disfranchisement by a state is made a political crime, and a political penalty is prescribed, viz.: Cutting down the number of representatives of the offending state. This punishment plainly does not restore the franchise, and there is no affirmative relief anywhere except from the state itself; unless Congress should make a statute under the fifteenth amendment providing machinery for enforcing that amendment. Very much more might be said upon this point, but time will not permit, and besides I might be led astray into a partisan discussion. I should add that the value of this case is diminished by the fact that there was no oral argument on either side, (as there was none in the last legal tender case.)

Our friend who gave us such a splendid address this morning has resided a large part of his life in one of the border states, has an extensive acquaintance over all the states, and is familiar with this system of slavery, and I hope as this question is

thrown open for discussion, that he will give us the fruit of his ripe experience and observation upon this point. As I look at it the future is rather ominous. I do not care, however, to let myself wander into oral talk for fear that I might say something which is personal, and you know that is forbidden in this association.

There was no oral argument in the two last cases, and I hold that no case is properly, thoroughly and completely submitted in any court without an oral argument. I once had an opportunity of hearing a case argued in the House of Lords; and I observed that the discussion took on a phase of a conversation between the judges and the lawyers, and after half an hour the case was pretty well sifted down to the pivotal point. I have noticed in the Supreme Court at Washington that very often that is the case. Senator Edmunds, who was in the last legal tender case, where it was held, as you will remember, that it was competent for the Government to declare greenbacks, paper money, legal tender, told me that he and the gentleman upon the other side, I forget who it was now, had submitted their briefs and had understood from the court that they would have an opportunity for an oral argument, when all at once, like a thunder bolt came the decision; and he said he never knew why they did not want an oral argument of the case; it was a curiosity to him.

I come now to the third and last case to which I will call your attention, and it seems to me that this is of more importance, from a political point of view, than either of the other two to which I have just referred, because it concerns the matter of the life and liberty of white people and brown people as well as black poeple. It is the case of the Territory of Hawaii vs. Mankichi.

It concerns the question whether in any place within the jurisdiction of the United States, a man may be tried for the taking of the life of another, without conforming to the guarantees of life and liberty contained in the constitution of the United States; in other words, whether the application of the guarantees of the constitution depends upon the will of congress; or, to use the popular phrase, whether "The constitution follows the flag."

The case was this: A man was charged with taking human life in Hawaii, and was tried and condemned without indictment of a grand jury, and by a three-fourths verdict of a jury of twelve, and having obtained an order for release on habeas corpus in the U. S. District Court, the Territory appealed and the decision below was reversed by the usual vote in constitutional cases of five to four. The ground of the opinion was that Congress had not extended the constitution to that part of the territories of the United States known as Hawaii.

Mr. Justice Day, the last appointed justice, sat in the case and his vote established the majority decision. Chief Justice Fuller, and Associate Justices Harlan, Peckham and Brewer dissented. Justice Harlan wrote an opinion of remarkable force and power, which, I notice by the press all over the country, has commended itself certainly to the lay mind, and I believe it also commends itself to the professional mind.

Before this, the court has decided that in the territories of the United States, upon this continent, and also within the District of Columbia, the guarantees of the constitution are in full force, and that their operation does not depend upon the will of Congress.

As a consequence of the present decision, and of the previous so-called "Insular Decisions," the possessions of the United States non-contiguous, are to be governed very much as the Crown Colonies of Great Britain are, or in the language of Judge Harlan, "As Vassal States." The policy is at war with the spirit, and the traditions, and the language even, of our written constitution. Power to make needful rules for territories, can not include power to suspend the constitution.

Our system, as conceived and established by the fathers of the republic, forbids the idea, and I think that our profession and the people at large have hardly waked up to the condition of things in which we now find ourselves. In Judge Johnson's speech this morning he told us of the power there was in the court in the Philippine

Islands, that the life and liberty of men are very much at the mercy of the judge. If the judge is as good and equitable as Judge Johnson, it is all right, and they have the best court on earth.

Mr. Bancroft, the eminent author of a history of the United States, in the fourth volume of his works, page 349, uses the following language: "To the decision of an underlying question of constitutional law no finality attaches. To endure it must be right. An act of the legislature at variance with the constitution is pronounced void; an opinion of the Supreme Court is equally so." This language is very strong, but is it not true? Is anything ever really settled, until it is settled right? Is it not monstrous that anywhere within our jurisdiction the constitution of the United States should be held to be inoperative, at least with regard to its guarantees of life, liberty and property, except at the will of congress?

The legal tender decision was deliberately reversed. This was practically the case as to the Income Tax. And in the Insular Decisions the majority reached a decision not only on different, but even on contradictory grounds. And it is highly probable that the doctrine of the majority in the Hawaii case will ultimately be abandoned.

Now, I repeat what I said in the beginning, that I have not intended to discuss these cases at all elaborately, but simply to bring them to the attention of our bar, that it seems to me they are questions of such importance, so recently determined and so closely affecting the whole future of the United States, that I hope my Brethren of the Bar will consider it desirable to say something about them. I suppose there must be some gentlemen here who are studying the subjects; at any rate it seems to me that very elementary doctrines of our noble profession have been set at naught in some of these decisions. (Applause.)

BANQUET

BANQUET,

CADILLAC HOTEL, DETROIT,

FRIDAY EVENING, JUNE NINETEENTH.

THE BANQUET WAS OPENED BY INVOCATION BY DR. JENNINGS.

TOASTMASTER BRENNAN.

Gentlemen of the Bar—These pleasant exercises close one of the most successful meetings of the State Bar Association that it has ever been my pleasure to attend. And they have been made successful by the individual efforts of our former President, Mr. Sloman, and of the Secretary who had charge of the committees. Not altogether, though, but because of your attendance from the State and from the city, and to the attendance of the eloquent gentleman who instructed and enlightened up today, the full measure of our pleasure has been rounded up. (Applause.)

In taking charge of the position as Chairman of the Banquet Committee I was especially requested not to make a speech. (Applause.) We have with us tonight a gentleman upon whom modesty as well as ability has set its seal. Always the friend of the young man who appears with fear and trembling before the august body of which he is a member, kind to the young, considerate to everybody. I think I need not name the gentleman. I have the honor to present as the first speaker of the evening—and, by the way, you must not expect set speeches, because all these speeches tonight are informal,—I have the honor to introduce to you, though he needs no introduction, Judge Moore of the Supreme Bench. (Applause.)

MR. JUSTICE MOORE.

Mr. Toastmaster, Members of the Michigan Bar Association—I am sure it is a matter of regret to you, as it is a cause of embarrassment to myself, that the Chief Justice did not find it possible to be present upon this occasion. Whatever knack I may ever have possessed to make a speech I have lost, and at these dinners I always have a feeling that if I attempt to say anything that I shall say an imprudent thing when I ought not to say it. I have very much the feeling the mother had with reference to her little girl. The story goes that the mother was a church woman who had invited the bishop to dinner, and when the little girl learned that the bishop was to dine with the mother she insisted that she should have a seat at the table. The mother said, "No, my little girl, you are a chatterbox, and you are always saying things that make me feel badly." But the girl promised the mother that if she would allow her to sit at the table that she would keep her mouth closed and say nothing. Relying upon that promise, the little girl was allowed to take her place at the dinner table. But the dinner, as formal dinners are apt to be, was delayed somewhat, and the appetite of the little girl grew, and when the food was brought upon the table the hungry girl felt as though the appetite ought to be assuaged. For the moment the maid was out of the room, the mother was busy with her duties, and the little girl got some bread, but she had no butter. That was near the bishop, and, having in mind the promise

she had made her mother, and at the same time anxious to gratify her appetite, thinking to do the proper thing, she said: "Bishop, for Christ's sake, pass the butter." (Laughter.) It may be a lack of policy to say an opportune thing at the proper time; but I am very sure it is easy to express one's pleasure to be the guest of the Wayne County Bar. A bar that has numbered among its membership such names as Jacob M. Howard, who was not only a great lawyer, but a great statesman as well; a name like that of Theodore Romeyn, and J. Logan Chipman, and the two Walkers, and William P. Wells, and that man who was recognized for years not only as the leader of the Wayne County Bar, but as the leader of the bar of the State of Michigan, George Van Est Lothrop. (Applause.) A bar which has on its list of men now living lawyers as able as your Don M. Dickinson, Professor Kent, Ashley Pond, and a man who delivers an address of such exquisite beauty as to be a pleasure to all of us to listen, who sits at my left, Alfred Russell. (Applause.) Those of us who have upon occasions prior to this had the pleasure of being the guest of this Bar Association never have entertained for a moment the feeling that was expressed by a stranger who attended a church at a place at which he was not accustomed to attend. Shortly before the close of the service the minister said that at the end of the service he would be pleased to meet with all the board in front of the pulpit. The stranger remained and went forward. His presence seemed to be a surprise to the preacher, and he said to him: "You are a stranger, aren't you? "Yes." "Is there anything I can do for you?" "I don't know; you made a request that all the bored should come forward at the close of the service, and I have been bored for the last hour and a half. (Laughter.) But a person attending the Wayne County Bar Association has never for a moment had that tired feeling at any of your meetings. Not only is it a pleasure to be the guest of the Wayne County Bar, but it is an honor to be allowed to represent, even for a passing moment, the State Supreme Court. A body which has had upon its list of membership such men as the great-souled and lovable and loved Charles F. Long. (Applause.) And who has always had among its membership that magnificent man so eloquently referred to in that very excellent address which my friend at the left gave us this forenoon. And I want to say here and now that if the Michigan State Bar Association had accomplished nothing during the past week except to secure the crystallization into a law a measure which shall relieve the pressure which has been put upon your court of last resort for the last twelve or fifteen years it would justify its existence as a bar association. (Applause.) And if, in the near future, there shall be new Graves, and new Christiancies, and new Campbells, and new Cooleys to discuss, as there will be, the enactment, and this measure will give time so that men of ability may put their opinions into such form as to be worthy to be published in the volumes of reports that contain the emanations of those four great lawyers.

It is not my purpose to make a set speech on this occasion, or detain you for any very considerable length of time. I think we all agree with Walter S. Logan, of New York, that among the professions that of the law occupies the position of prominence above them all. What the sun is to the solar system that the profession of law is to all other of the professions. If a line of railway is to be built across a continent, or if a canal is to connect the two great oceans, not a shovel of earth can be lifted until the lawyer has secured the right of way. If disease is to be battled no more efficient help can be given than the advice of the attorney to the Board of Health, and his work may be even more efficient than that of a score of doctors. The lawyers have always been helpful to society and helpful to the government. All the ages have had their problems, and the present age is no exception to that, as we were very forcibly reminded by that magnificent address to which we listened this morn-

ing. I suppose we are all agreed that one of the most difficult problems lying in the immediate future is to detemine what shall be the relationship between capital and labor. As was made very clear to us this morning, through some of the labor organizations the laboring men are inclined to go to extremes in an attempt to get what they regard as their rights, and I think it equally true that capital has been unduly selfish, and has been inclined to profit not only at the expense of the laboring man but at the expense of the public at large. (Applause.) And the great good which has come because of the existence of such a profession as that of the lawyer is that they are to act as the great conserving force, and to see to it that between the aggressions of these two conflicting interests that such a result shall be worked out as shall be not for the undue advantage of labor, nor for the undue advantage of capital, but that it shall result in as nearly absolute justice to these two conflicting interests as it is possible for the human intelligence to see accomplished. (Applause.) I am tempted to believe that the world has never been as good as it is to-day. And it is not as good to-day as it will be in the future. If that should be true it will be because the profession of the law has done as much towards accomplishing that result as a like number of men among any of the callings of life. I thank you for the attention you have given me on this occasion. (Applause.)

Toastmaster Brennan: I am positive there is no necessity for asking the "bored" to come up any nearer. (Laughter.) We are so well pleased. This morning when we had the pleasure of listening to the learned author that spoke upon the topic of damage claims and damage lawyers——

A Voice: Damaged lawyers.

The Toastmaster: Damaged lawyers; I stand corrected; everybody, I think, in the audience was impressed with the style and the manner and the substance of the lecture, and I know at one time I gave myself rather credit for thinking of the damaged lawyers as getting rather the worst of it, until the learned lawyer suddenly veered around and gave the corporation lawyers a little more than he gave the damaged lawyers. And from that he went on another subject, and spoke with such eminent fairness and candor and honesty that he reminded me of the fact that he must have in him some Celtic blood, and some Celtic independence, because he evidently had been advised, and had taken the advice a countryman of mine gave to his son when going to the Donegal Fair. He says: "Father, what shall be my rule of conduct when I am there?" "Why," he says, "my boy, there is only one rule: Wherever you see a head, hit it." (Laughter and applause.) Without further introduction I will present to you Judge Thompson. (Applause.)

JUDGE THOMPSON.

Mr. Toastmaster, and Gentlemen of the Wayne County Bar—I had no idea I would be called upon to make a speech at this banquet, and whenever I am called upon without forewarning I always think of an anecdote that Judge Ballinger of Texas used to trot out on such occasions. A lawyer in Texas had brought, I believe, a damage suit (let us call it that, for damage suits constitute the great volume of our litigation), and after the evidence was in, or after some steps in the trial had been taken, he asked leave to amend his petition, as it is called in Texas; complaint, I believe, in Michigan or declaration, for the old common law word is still a good word. The judge said: "I think you are entitled to amend. I will grant your motion. ." The defendant's lawyer then said, "If an amendment of this nature is allowed I claim a continuance." "On what ground?" said the plaintiff's lawyer. "On the ground of surprise," said the defendant's lawyer. "Well, well," said the judge, "I think

you are entitled to a continuance. On that ground I will grant the continuance." "Hold on, then," said the plaintiff's lawyer; "I will withdraw the amendment if it is going to work a continuance." The defendant's lawyer replied, "If your honor please, he can withdraw his amendment, but he can't withdraw the surprise." (Laughter.)

My old friend, the Rev. Mr. Babcock, was a Methodist preacher of the ancient variety, a good man, but a rough diamond—I have an affection for his memory, for his son was a comrade of mine in the civil war. We were in the same company, and I well remember when we got into an ambuscade near Liberty, Missouri, in the deep woods of the Missouri bottoms, and our column was wrecked by the Confederate fire, and Babcock could not see anything to fire at. So he sat down on a log by the side of the wagon path and began to pick blackberries and eat them. He was a chip of the old block. His father could not be surprised. Oh, I wish I was like his father in that particular. One morning down in the Turkey River bottom near Eldorado, where I lived a short time, they were having one of those grand old Methodist camp meetings, one of those old revival meetings. Brother Babcock rode down in his buggy, rode up among them, and some of the clergy came around to him and said, "Brother Babcock, how opportune your arrival is, how fortunate it is. We are all worn out. We need a supply. We must have a supply today, a supply now to preach the morning sermon." Well, Brother Babcock said, "Brethren, when I drove down here to see what you were doing, I had no idea of being called upon to preach, no idea; but with the help of the Lord, I can do it." That is the sort of a man you need all along this table, at an informal banquet, where you call a man out without giving him any notice. My distinguished friend on my left asks me, "Why don't you shake off the responsibility by telling some of those anecdotes?" Well, which one shall I begin with? Why, I don't know. I think I might as well begin with Judge Charlie Peers, who was an associate of mine on the bench of a little court in Missouri. Charlie used to tell an anecdote on himself, and incidentally on an old country doctor. Charlie when a boy had a terrible toothache, which ached and ached and kept on aching, and finally his mother told him that there was no use in delaying any longer, he must go to the doctor and have it pulled out. "But," he said, "mamma, it will hurt me worse." "Yes, but the hurt will only last a moment; you must pluck up courage and go and have him pull it out." So he plucked up courage and he went to the old country doctor, and the old doctor plucked up courage, and got out his forceps, and pulled out the wrong tooth. But the counter-irritation in consequence of pulling a near-by tooth caused the obnoxious tooth to stop aching, and he had it in his head when he told the anecdote the last time. (Applause.) Now, what has your learned toastmaster done in calling me up here: He will find out when too late he has pulled the wrong tooth. Do you think you are going to get rid of me this evening. Oh, I will hold the fort. I will hold the fort until you are thoroughly tired of me, provided I can think of these anecdotes one after another. I had a dog that was not all a dog, for in his nature there was something human. That is to say, I had him for a short time. My friend, Libby, of San Francisco, gave him to me, and I kept him as long as I could and then I gave him back to Libby. He was a spike-tailed dog. That was my principal objection to him. He looked as though his tail, as they say in the west, had been druv up. It came to be druv up in this way: They went out in the summer to a country hotel near Reno, Nevada. That dog was not accustomed to the Overland train. He didn't like the great Overland train, composed of 16 Pullman coaches, drawn by two engines of enormous strength. He disputed the right of way with the Overland train every time it rolled into Reno. He jumped down upon the track, he challenged the train, he barked. He endeavored to bite the cow-catcher. One

day in whisking away from the forward engine he whisked his tail under the forward trucks, and the trucks cut it off close up. The dog got well. They generally do unless the tail gets cut too far up, as when a white man and an Indian were cutting a tail off once. It was the tail of the Indian's dog. The white man held the tail over the log, while the Indian swung the ax. The white man pulled the dog a little, the ax came down and cut the dog in two in the middle, which led the Indian to observe, "Ugh, ugh, too short, too short entirely." Libby's dog determined not to have his tail cut off again. As soon as he got well whenever the Overland train would roll in he would take his station and challenge the train, disputing its primacy, but he always held that stump of a tail right close up against the wall of the station house, and riveted it there as if he could not get it loose, until the train moved. Now, gentlemen of the Wayne County Bar Association, take warning from this anecdote. (Applause.) That warning is Dont do it again. Whenever old man Thompson comes to see you don't think he is so very old after all. Don't trot him out again. Remember he is perfectly capable of making a long speech, if not a good one. We had dogs in Missouri, dear old Missouri, poor old Missouri, grand old Missouri, as you will see next year at St. Louis, at the Louisiana Purchase Exposition. We have in St. Louis every spring a period called dog-muzzling time. Hydrophobia breaks out, and all the dogs that have collars—I hope none of us wear collars—and all the dogs that have licenses and collars, and that are entitled to run at large, have to be muzzled. On the year in question the fashion of the muzzle was a sort of wire hood that came over the head, and that bristled with sharp steel needles. Well, my old friend, Chris Meyer, who kept a saloon up at Warrenton, went down to St. Louis on day in "dog-muzzlin' time" and he saw lots of fun. The dogs would try to salute each other, and then, acting as human beings often do, the dog for whom the kind salutation was intended, would get mad and tackle the other dog. The needles in his muzzle would prevent him from saluting the other dog in the same customary canine way, and the needles in the muzzle of the other dog were equally good, both for offense and defense. Many and many a queer dog-fight took place in St. Louis that year during "dog-muzzlin' time." Chris Meyer bought a muzzle for his dog and took it home to Warrenton and put it on said dog. He and Charlie Peers and some other of my friends were seated, of a Saturday afternoon, in front of Chris's saloon under a Mulberry tree in the cool shade. Chris's dog, a small, mangy cur, with his muzzle on, smelled around and acted in the appropriate way; when suddenly an apparition appeared down the street, something having an undulating motion. As it drew nearer and nearer, it appeared to be a countryman mounted an a "muel." He might have looked like a Don Quixote, except that he fired the tobacco juice this way and that, "hither and thither and yan." In front of the countryman, as avant-courrier marched his dog, one of those grand yellow Missouri dogs, looking like a candidate for Chief Justice on any of the three tickets in vogue in Missouri: Erect of tail and proud of heart; proud of himself and proud of his master, perhaps also proud of his master's "muel"; turning aside to visit the customary canine salutation upon this stump, upon yon prostrate log lying by the road-side. The countryman was proud also,—so proud that he burst into song. And on he came,—

"Singing, singing, lustily singing,
Down the road with his dog before,
Like the Ritter of Nierenstein."

"Now boys, now boys, said Chris, you are going to see some fun; when my dog goes out to meet that dog, you are going to see some fun. Now, just watch." Chris's dog trotted out boldly, stepped up to the countryman's dog, and they started to salute. The big dog looked down on Chris's dog with patronizing air, and Chris's dog turned to complete the salutation. Suddenly a yell arose,

and the big dog seized the little dog by the scruff of the neck and shook him like a rat. There was the mistake of Chris Meyer. He forgot that other fellow's dog was not muzzled. That is the mistake you have made in calling me up tonight. (Laughter.)

I inquired what great things Detroit could boast of. A Chicago man whom I met, not a Detroit man, said, "Why, Detroit can boast of four things: A great city, a great commerce, a great court house, and Hulls surrender.' I walked through the marble corridors of your new court house today. I admired its grand proportions. No economizing of space. Every thing on an elaborate scale, built with the greatest architectural skill and propriety, and I thought of Byron's description of St. Peter's Church in Rome. And I thought also of Milton's Pandemonium in hell. Those are the two greatest descriptions of architectural grandeur in our language. Read them. Commit them to memory. And you will not know which poet to admire the more or which description to admire the more. You will discern the difference between the two poets. Milton was an objective poet. He described the thing as Dante used to describe his creation. He told you how it rose, and in what shape and height.

"As in an organ from one blast of wind
To many a row of pipes the sound-board breathes,
Anon out of the earth a fabric huge
Rose, like an exhalation, with the sound
Of dulcet symphonies and voices sweet,
Built like a temple, where pilasters round
Were set, and Doric pillars overlaid
With golden architrave; nor did there want
Cornice or frieze with bossy sculptures grav'n;
The roof was fretted gold. * * * *
Th' ascending pile
Stood, fixed her stately height, and straight the doors.
Op'ning their blazen folds, discover, wide
Within, her ample spaces, o'er the smooth
And level pavement."

You see it when you read that description. Byron, on the other hand, was a subjective poet. When he walked into St. Peter's Church in Rome, he felt the beauty of the place. He felt the grandeur of the place. He felt the worship of the place. He describes it by telling you how it makes you feel to see it, that is, by telling you how it made him feel to see it.

"Enter; its grandeur overwhelms thee not.
And why? It is not lessened; but thy mind
Expanded by the genius of the spot
Has grown colossal and can only find
A fit abode wherein appear enshrined
Thy hopes of immortality; and thou
Shalt one day, if found worthy, so defined
See thy God face to face, as thou dost now
His holy of holies, nor be blasted by his brow."

When I walked through your magnificent court house, I thought of those passages, and I thought of another thing that made me sad. I thought of the narrow, cramped, circumscribed and undignified quarters of the greatest judicial tribunal in the world. I thought of the Supreme Court of the United States. Our court, a court to which every lawyer in this great land owes and accords allegience. Sitting in the old senate chamber, a place filled, it is true, with historic associations, but a place so narrow and circumscribed that the members of the bar that crowd into it on opinion day, when they know that the court is going to deliver opinions on some great question, as for instance, in the Insular Tariff, have not sitting room, nor even standing room. They crowd into the lobby of the court, and what is that? The clerk's office. No reception room for the assembled members of the bar, but they must crowd into the clerk's office; carry on their gossip there. Interrupt the clerk and his deputies in the conduct of their necessary work. And then the

judges, instead of a consultation room which they should have, have I am told, a room of moderate dimensions called the robing room. A room which I have never had the honor of entering. If a member of the bar goes there to get a Writ of Error, which he must get from the justice of his circuit, he must attend the judge at his residence, somewhere in Washington, after the court has adjourned for the day. The whole thing is discreditable to us as a nation. There is a court to which is accorded by unanimous consent, though once contested, the power to set aside acts of sovereign legislation. There it sits cabined, cribbed, confined in what I once heard a brother from Arkansas call a "nigger kitchen," with profound respect and admiration for the Court. He could not think of a more contemptuous term for the small room in which the court is condemned to sit, than to say it was no bigger than a "nigger's kitchen." For a few years past efforts have been made to secure by purchase or by condemnation a lot of about three acres of ground to the north, I believe that is the direction—from the capitol, near the Congressional Library, on which to build a habitation for the court to be called, according to some ambitious project, the Palace of Justice. The last measure on the subject provided for the condemnation of ground, and for the appropriation of money to build a house in which should be congregated not only the Supreme Court of the United States, its offices and its records, but the local judiciary of the District of Columbia. It was to be a building for the Department of Justice. Everything was to be mixed in, to use a word of old General Taylor on the field of Buena Vista, everything was to be mummixed together, including the ten Justices of the Peace of the District of Columbia. They were to have offices in the Palace of Justice with the Supreme Court of the United States. Well, congress hadn't time to get the measure through. There wasn't as much opposition to it as formerly, but it didn't benefit any particular congressman. The court has no patronage to bestow. The judges could not, if they would, bring any influences to bear upon members of congress, and so congress appropriated enormous sums of money for carrying on the government among alien peoples in distant parts of the world, and to improve the navigation of the Podunk river, but forgot the Supreme Court of the United States. A resolution was introduced in the American Bar Association at its last meeting which ran something like this: Resolved, That it is the sense of this Association that Congress ought without further delay to provide a suitable building for the Supreme Court of the United States; its officers, its records and its bar. After some debate, and lawyers will debate and attack everything, because that is their habit—after some debate the resolution was carried almost unanimously. But the measure itself will not be carried until it is carried in the way in which you have just carried your measure to relieve your Supreme Court. (Applause.) It will not be put through until the bar of our country take hold of it, and say that this scandal shall be no longer be endured. We can put it on merely the ground of our own dignity and self-respect. The respect which we owe to ourselves. We can put it on a more selfish plane, and say that the bar of our country have a right to a suitable hall in which to meet the highest court of our country, and in which to transact legal business with that court. Every member of this association ought to see to it that his member of congress is well-informed upon this question, and instructed in reference to it, in order that some measure of the kind shall pass the next Congress of the United States. And if, when you think of your own magnificent temple of justice here in Detroit, you will drop a tear for the quarters of the Supreme Court of the United States and then take up your tomahawks, and highly resolve that the crusade shall not stop until that court has a palace of justice in which to sit by itself alone, not mingled or confused with any other judicial department of the government, until it has such a palace of justice, with a suitable library, a

suitable reception room for the bar, in all things equal to the court house of the Appellate division of the City of New York. Until you have done that you have not done your full duty as lawyers. (Applause.)

Toastmaster Brennan: Gentlemen, amongst the pleasant surprises we had this morning was the able address of a citizen of this State who has recently been elevated to the high position of a member of the Supreme Court of the Philippine Islands. We heard in brief from him this morning, and I know that we are all anxious to hear more of his experience in the Philippine Islands, and without waste of time in introduction, I beg to introduce the Honorable Judge Johnson of the Supreme Court of the Philippine Islands. (Applause.)

JUDGE JOHNSON:

Mr. Toastmaster and Gentlemen of the Michigan State Bar Association. I feel about as happy, and have felt so ever since I came back to the State of Michigan, as I used to feel when I was a boy on the farm in the State of Ohio. And if there is any class of boys that are happy, really happy, they are the boys that are raised on the farm. Now, I have not prepared anything to say on this occasion. My friend, the toastmaster, promised me after the meeting today that he would prepare something for me, and he assured me that it would be entirely satisfactory to me. (Laughter.) And I am quite sure, gentlemen, when I am through you will agree with me that my speech is about as blank as the piece of paper he now hands me.

While Judge Moore was addressing you I was reminded of what Gladstone said of the lawyer. In 1870, I believe, it was, when he returned from a trip in South Africa; in speaking of the value of the lawyer to the state he said: "In that country I found despotism and tyrrany ruling upon every hand. I found that the government there had virtually suppressed the Press; had virtually closed the mouths of all the citizens against the criticism of the authorities of the government. The government had practically closed the mouths of all the people except the lawyers. But he says, I found there the lawyer standing up in the face of tyranny defending the rights of the poor and helpless people. (Applause.) And that is no less true, gentlemen, in every land where lawyers are found. I remember the record of the instance of Peter the Great, when he on one occasion was visiting London, and in conference with the king of England with reference to the value of the lawyer to the state, after hearing the laudations of the king of England upon the value of the lawyers of his realm to him and his people, Peter the Great said: Well, sire, I have but two lawyers in my entire realm, and when I return I shall hang one of those. (Laughter.) And, gentlemen, the history of Russian unmistakably shows that the liberties of the people of Russia have kept pace with that spirit.

I scarcely know where to begin with reference to the judiciary of the Philippine Islands since my connection with it. But briefly: On the 16th day of June, 1901, the United States Philippine Commission, having legislative authority, which was given that Commission by the War Department of the United States government, enacted a law organizing the judiciary of the Philippine Islands. That consisted of three courts, the Supreme Court, the Circuit Court, as it was known in Spanish times, the Court of First Instance, and the Justice Court. Therefore, we have in the Philippine Islands now substantially the same courts that you have in Michigan. The justice of the peace, the court of first instance, the Circuit Courts and the Supreme Court. There are seven men on the Supreme bench, four Americans and three Filippinos. The chief justice is a Filippino, and a grand man he is. In my opinion Justice Irylano is as well posted as any man on that bench, and I think it is generally conceded by all who know him. The courts of first instance are filled generally by

Americans. There are about thirty-eight provinces in the Philippine Islands, taking in the entire archipelago. Formerly the Spanish government, under a military regime, sent a judge into each province. The American government divided all the archipelago into twelve districts, putting two, three, four, five provinces into a district, and they sent a judge into that district. Of the twelve judges in the courts of first instance, four are Filippinos. And I might remark that the Filippinos almost universally have indicated to the Commission that they prefer the American judge. I make that statement, gentlemen, to show you the confidence and the loyalty and the support that the Filippino has for the American citizen. The justices of the peace are appointed for each pueblo, and the pueblo corresponds with our township here. All of the judiciary are appointed by the commission and the President of the United States. The courts of first instance, and the justice of the peace are all appointed during good behavior, or life, while the judges of the Supreme Court are appointed by the President of the United States. The justices of the peace have similar jurisdiction to the justices of the peace in Michigan. The judges of the courts of first instance have almost exactly the same jurisdiction with reference to subject matter that the circuit courts have in Michigan. And the Supreme Court is simply an appellate court, having original jurisdiction in extraordinary legal and equitable remedies. When the courts were begun we found a great many cases that had come over from the Spanish government, and a great many prisoners that had been in jail time out of mind, almost, who had never been brought to trial, and had never been informed of the crime with which they stood charged. I organized the first American court in seven different provinces. In one province I found over seventy men in jail, forty of whom had been there for a long period, and not a single record of any kind filed or made against them showing with what crime they were charged. The clerk did not know why they were there. Nobody knew why they were there. I called them into court under the direction of Judge Taft, and simply dismissed them. The delay under the old practice in the Philippine Islands was simply terrible. I know a man who lives in the province of Pandenon, who was kept in jail twenty-three years without being brought to trial, and then was tried and sentenced to six months in jail. (Laughter.)

The penitentiary, which is located in Manilla, contained many and many a man who did not know for what crime he had been imprisoned. One instance—A Filippino petitioned to Governor Taft for pardon, and in his petition he said: "I was placed here in 1887, I have been here ever since, I never had a trial, nobody ever told me with what crime I was charged. I would like to be pardoned." He said he lived in the province of Pandenon. That was one of the provinces in my district. Governor Taft forwarded that petition to me. I found out the pueblo from which he was sent, in which he formerly lived. I inquired of my clerk, who had been clerk there for twenty-five years, was a clerk under the Spanish government, and when the United States took control was reappointed. He knew nothing of the case—had never heard of it. I made the recommendation to Governor Taft and he pardoned him. That is another instance to show how tardy justice was under the former administration. I believe I am right when I say that the American judges have disposed of all of those old cases, and are now practically up with the docket. I have been holding court in Manilla since early last fall, and at one time in the month of March we were up with the docket in Manilla. I would not have you believe now, gentlemen, that there are no cases being commenced, because there are many new cases. Since January 7,500 cases have been commenced in Manilla. Now you wonder how three judges (and there are but three judges in the courts of first instance in Manilla) could dispose of so much. In the first place, we have no jurors. The judge there is judge of the fact and the law. There are

many demands for them. Almost every case that is brought by an American lawyer a demand for a jury is made. But we feel, and Governor Taft—probably you read his statement before the committee at Washington last year—feels that the time has not yet come when the Filippino is qualified to act as a juror. But I want to make this further statement that I am sure the American judges there would feel perfectly safe in selecting jurors, if the power were given to the judge to select them. There are many very intelligent Filippinos in every community, sufficiently intelligent, in my judgment, if they were properly selected, to act as jurors in the minor cases. And I hope the time will come when they will be accorded that right. And it is a great saving of time in the trial of causes without a jury. You can dispose of the case and go on with the next case. You don't have to wait for the empaneling of a jury, and that is the reason why we have been able to dispose of so many cases.

You will pardon me if I refer to some of the work that I have done. I had my stenographer go through the notes I had taken concerning each case that came before me, and he informed me that I had tried in the last two years about 1,500 cases. Now, that seems absurd to the American lawyer where you have the jury system. I have tried more than 500 men charged with murder. And without mentioning the fact for the purpose of boasting, but simply as a fact, and I am sad to mention it, I have sentenced twenty-seven men to death. And in that connection it might be interesting to know how men are executed in the Philippine Islands. Up until the first day of November, 1902, we were enforcing the old Spanish law upon that particular question, and men were executed then by the garrote. And I believe you will pardon me if I stop here and describe to you how that is done. A man takes a special seat, the chair made for him, and he sits down in a very comfortable position. His arms are fastened to the arms of the chair. His legs are strapped to the legs of the chair, and a large strap surrounds his body that holds him firmly to the chair. And in the back of the chair there is a post. On the top of the post there is a box. That box is usually made of iron, copper or brass. The box is just large enough so that a man's neck can comfortably be placed in it. In the bottom of the box is a gate which closes. In the rear of the box is another post corresponding to the gate found in front. This rear gate, if I may call it such, moves in a groove, and can be pushed up clear against the front gate, and against the hind gate is a large screw with sufficient twist so that a man takes hold of a large crank, and with a half circumference can almost close that gate. Of course, it breaks the man's neck.

It might be interesting also for you to know that two of the men that were sentenced to death by my court were the executioners under the Spanish government in that province.

Now, with reference to the humaneness of the garrote. On each occasion when these men were executed I had American doctors present, and I submitted to them four or five different questions, in order that I might know something of the effect and the humaneness of that method of execution. And I want to say that it took a great deal of courage for me to sentence men to that method of execution. And I never did sentence a man to hang or to be garroted without almost racking my nerves. It is a serious thing, indeed. But these American doctors reported to me in writing that the garrote was a much more humane method of execution than any other. I tried one man who stood up in court and confessed that he had killed thirteen persons, and the last was a child, and that he held the child in the fire until its feet were burned off. Another, who appeared to be a man 30 years of age, confessed, when the complaint was read to him, that he had killed four on the same night, a mother that was about to give birth to a child, her little child eighteen months old, another child three years old, and a little nephew nine years old, and the evidence

showed he went back the next morning to dress those four bodies for burial. The purpose of the murder was robbery, as he carried away a large amount of money and jewelry.

Another peculiar thing in reference to our practice in the courts there—and I want to remark again we are still enforcing the old Philippine law, the law which the Spanish government gave to the Filippino. They codified everything. They have the civil code, the commercial code, the criminal code, the maritime code or admiralty code. You have got a code of law for every department of practice, so that we are not troubled much with ascertaining what the law is except as to the interpretation of these titles. We simply read the code, and if there is any doubt about the interpretation of the code, then we have to read the Spanish Supreme Court reports. And the court records are all in Spanish. The procceedings are in Spanish, and the Commission promised the Filippino people that it would be continued until the first day of January, 1906. Under the Spanish code and under the Spanish practice the people who put up money on a game could appeal from a court of first instance, from the decision of the umpire, and it might be interesting to you to relate just one case of that kind that came into my court. Cock-fighting is the national game, the national sport of the Filippino people. Every Sunday and every holiday the people assemble in these cock-pits, and I have seen cock-pits in which 10,000 people could be seated. And one of the cases that I have in mind, the fellows that had put up the money on the cock fight appealed from the decision of the umpire to my court. It was a most serious question, and I deliberated long and seriously about it. I called the stake-holder into court; and I want to say to you also this case had been hanging since 1887. I found out who the stakeholder was, and called him into court and asked him if he had the money, and he said he had. I asked him if he would turn it over to the clerk of my court, and he said he would. Then I sent for the party litigants. They came into court; and when the Filippino comes into court he is dressed in state. All the good clothing that he can afford he puts on when he comes into court. These fellows came in, and I told them it was a very serious case, that I knew nothing whatever of the rules of the cock-pit, and I felt I could not do justice to either of them, and rather than do injustice to them I had decided to order the money turned over to the provincial treasurer, to be used for the poor old blind people of that province. I says, "What do you think of it?" Well, the first person stood there, first hanging on one foot and then on the other, and he looked down, and he looked up, and then he looked at me, and finally he says, "Well, that is all right." "Are you willing to have the record show that the money was turned over with your consent?" "Yes." Then I turned to the other fellow. "What do you say about it?" And he hesitated longer than the first one. Finally he said: "That money was not all mine. There was some other fellows gave me a part of that money, and I don't know what they will think about it." And I looked at the record, and I said: "No other parties appear of record, and I cannot bother about them, and I want your judgment." Finally he said: "All right; that is all right." And I said: "Are you willing to have the record show the money was turned over with your consent?" And he said he was. So I made the order, and I established, as far as I know, the first charitable fund ever established in the Philippine Islands. (Laughter and applause.) And that is the last appeal that I have heard of. (Laughter.)

I want to say to the older men that are present, and perhaps there are some who have served upon the bench years ago, who can remember in Ohio the judges had to travel from one circuit to another on horseback, or in any way they could. And I in the Philippine Islands have traveled 1,700 miles on horseback from one province to another to organize American courts. There is but one railroad in the Philippine Islands, and that runs from Manila to

————,a distance of only 120 miles, and of course very slight accommodations result from that one railroad. We have an American bar in Manilla (Laughter.)

A Voice: Only one?

Mr. Johnson: My friend, Judge Moore, remarks it is not the kind of bar you gentlemen are just now thinking of. We have an American Bar Association in Manilla, composed of young men, and a fine set of young fellows they are, men that have gone out to that country in the hopes that they might do the people a great deal of good, and themselves a little good. The American Bar Association in Manilla contains, perhaps, fifty live, earnest young men. That Filippino Association contains about 150 Filippino lawyers, and I am proud to say that it is generally admitted that one—and I am proud to say because of the spirit of the American people towards the Filippino people—that one of the best lawyers in Manilla is a Filippino, a Chinese mestizzo, a bright, brilliant, well-informed young man.

Now I feel, gentlemen, that I ought not to take up any more of your time There are hundreds of peculiar instances that came under my observation there, but I have taken up already more of your time than I ought to have done. I appreciate, gentlemen, the opportunity to meet you, and to greet you, and I shall forever remember this occasion in the far-off land of the Orient. (Applause.)

Toastmaster Brennan: I think I voice the opinion of every one of us when I say we feel extremely obliged to Judge Johnson for informing us upon those topics that are so interesting, and concerning which so much is to be desired. I know upon that question of the administration of the law, notwithstanding the able articles written in our legal papers about it, many of us up to this time have been ignorant of the methods of administration.

We have with us to-night a gentleman that has come from Adrian at much sacrifice to himself, and who has kindly promised to speak a few words to us, Hon. Henry C. Smith, former member of Congress from Adrian.

CONGRESSMAN HENRY C. SMITH.

I think our worthy toastmaster has exaggerated the idea of my coming here at any sacrifice. Iam sure it is a great pleasure, and I assure you that the country lawyer appreciates the royal treatment of the Detroit bar. (Applause.) I was asked to speak to the sentiment of the lawyer in politics. I am, perhaps, well qualified to talk upon that subject, being little of either. I am inclined to think that I can practice law in the Philippines. The lawyer succeeds in politics because there never went by a day in the history of the country, in my judgment, when the talker was at so great a premium as to-day. And I want to give just one instance. When Major McKinley was nominated in St. Louis for the presidency, Mr. Bryan, not thought of for the presidency, little known, representing an unknown news paper as a reporter, lodged in a second-rate hotel, and yet inside of a few weeks, by his masterful eloquence, by the wonderful power of his integrity and ability he had inspired the confidence of almost the majority of the American people. (Applause.) It shows the power of the man who may talk. I looked over the records of the Fifty-seventh Congress. There were in the Senate thirty-four Republicans, three Populists, thirty Democrats; and in the house there were 135 Democrats, three Populists and 176 Republicans. In the Senate of the Fifty-seventh Congress there were twenty-three senators who were not lawyers, and sixty-six senators who were lawyers; in the House eighty-three Representatives

who were not lawyers, and 268 who were lawyers. Some of them, perhaps myself among the number, were of the kind described by Congressman Fordney, when he was an expert witness in a lumber case, upon the question of what was a cull. He said a cull was a piece of lumber that was not merchantable, and the lawyer on the other side, pounding the desk, with a loud voice wanted to know if that applied to other articles of merchandise. Mr. Fordney said: "I don't know, but I think that a lawyer that uses his mouth and uses his arms and uses his fist instead of using his mind, is a cull." (Applause.) The Congressman went out into his district to make a speech in the afternoon. The committee thought he ought to go down to the school-house and talk to the scholars, and he told them of our wondrous country, of its great past, and its prophetic future; and he said, "It may be possible that some boy standing before me may be President of the United States, and have more power and more men dependent upon him than any man in all the majestic world." And he said: "Would you not, little boys, like to be president of the United States? And all of you who would like to be President of the United States hold up your hands." And they all held up their hands but one. One little boy down in the class did not. And he said: "My little man, don't you want to be President of the United States?" He said: "No, what's the use; I am a Democrat." (Laughter and applause.)

Toastmaster Brennan: Gentlemen, there is no gathering of Michigan lawyears quite complete without a few words from our silver-tongued orator and friend, Alfred Russell. (Applause.)

HON. ALFRED RUSSELL.

Mr. Toastmaster, Brethren of the Bar—The toastmaster has asked me to say a few words, and they shall be few. It has given me extreme pleasure to be present at this meeting of the Bar Association of our State. It has given me pleasure to be present during the exercises of the last two days. It has given me pleasure to see what the bar of Michigan can accomplish if they only try. And it has given me great pleasure to be present this evening and hear what has been said by those gentlemen whom I have the honor to follow. And I was particularly pleased to hear from the Philippine Islands, and to know that out there, 11,000 miles across the Pacific, they not only have the comforts of life, but the comforts of death. When our good friend, the judge, was telling how comfortably the man sat down to his death, what a comfortable place he had for his neck, how easy he went off, it gave me pleasure. And when he was describing the summary justice which is administered in the Philippine Islands, it appeared to me that perhaps we had something to learn in Michigan from the way they do out there. Now, a jury is a very expensive institution. It is a very troublesome institution. I presume Brother Pound will say it is a very necessary institution. I will say, for the benefit of those who don't reside in Detroit: whom, I may say, don't have the happiness of residing in Detroit, that Brother Pound is the president of the Detroit Bar Association, whose guests we are all to-night, and that he believes in the jury. Now, the jury only costs us about a million dollars a year in Michigan, and it costs us a great deal of delay, and you know the indictment which the people, the public brings against us is that there is great delay in the administration of the law. And it is said in D——— there is no delay, because they don't have juries. That seems to be the way in the Philippines. The judge, in other words, is the whole thing. And if the whole thing is like our brother who has instructed us to-night, it is all right. The only trouble is, suppose he was not. Then what would you say. It is said, as I said this

afternoon, that the government of a despot is the best government in the world, providing only we have a wise and good despot. And that is what they have in the Philippine Islands. Now, my brethren, we have a great and noble State. I am proud of it. And I am proud of seeing so many of our people who have come to Detroit. I am told by the president that we have about 250 a year who leave their homes and the ordinary vocations, and come here for the purpose of social intercourse and for the purpose of discussing some of the great problems which are resting upon the country, is a source of extreme gratification. Why, here is our brother, Judge Benjamin J. Brown, who has come over 700 miles from the upper peninsula—I saw him a moment ago—I see him now—700 miles! Why, it is a great state. As I was telling in rather a boastful way our friend from Missouri that our State is larger than New York, larger than Ohio, larger than Illinois, larger than Pennsylvania. But he says, "It is not as big as Missouri." (Laughter.) And we don't have any dog-muzzling period in the State of Michigan. Now, gentlemen, I am glad to see that the glasses are almost all empty. And that, in case you are in that condition of receptivity, both of body and of mind, which can stand a few words from any of us. The responsibility of the bar for good government—our brother, Henry C. Smith, has told you what an overwhelming majority we have in the government of this country. I wish you would take up the Legislature of Michigan and tell us how many lawyers of Michigan were in Lansing for the last six months. He said he would. He shakes his head and says he would not do it. We ought to be grateful for that, and we ought to be very grateful for the things which they did not do. (Applause and laughter.) Yes, gentlemen; yes, brethren, our share in the government of this country is so great, so much dependent upon us for the guiding and relieving of the public, that we almost feel we should stagger under the responsibility. So it has been from the beginning. Who laid the keel of the Ship of State? Who launched the ship? Who has governed it and directed its course from John L. to Major McKinley? How many of the Presidents have been lawyers? Our brother, Henry Smith, is a statistician, perhaps he can tell us. But it is a great many. Grover Cleveland was President and a lawyer, and proud of his profession. I believe from the very beginning that a large majority of those gentlemen who have made the United States what it is, from a little United States of three millon of people scattered along the fringe of the Atlantic coast until now we have some eighty million from ocean to ocean, and from the gulf to Canada; I believe that a great majority of those men that constitute the majority of the statesmen of the United States have been members of our noble profession. And I was in accord with my good friend here who told us about the docket, when he said this morning that every profession is an aristocracy, and that the profession of the law has the primacy among the aristocrats. (Applause.) Of course, as I said, these great powers are accompanied with great responsibilities. And the duty of this association is to see that we not only do our duty, but that the young men who rise on the other side and look for the honors and the emoluments of the profession should be what they ought to be.

To have a part in these great duties, and these great responsibilities, and then see to it; if they are very anxious for these honors and these duties, and these offices, then the responsibility is on them. Let us see to it that they are fitted to bear them. We hear a great deal about the commercialism which has invaded every class and rank of society. It has invaded also the bar. But is it true that the Morgans and the Rockafellers and these other gentlemen of whom we read having mints of money so large as to be almost inconceivable, the gentlemen who are receiving such emoluments as your toastmaster, and Judge Thompson, and the rest of us; is it true that, after all, these men are the men who are entitled to all the respect and all the honor which is given in

this nation by the mass of the people? No, it is not. I believe that the profession of the law, conducted honorably and successfully, commands to-day more respect and more honor than is given to these wealthy men or any other class in the community. I thank you. (Applause.)

Toastmaster Brennan: The hour is not late at all, and we are reserving some of our best speakers for the last, and I take pleasure in calling upon Mr. Weadock to make a few remarks. Mr. Weadock is always instructive and incisive. (Applause.)

MR. T. A. E. WEADOCK.

Mr. Toastmaster, and gentlemen of the Bar—As I sat here this evening listening to the distinguished gentleman on my left, I remembered, as we all remember, the splendid abilities of Judge Taft when he was presiding in this circuit court, and the great work that he has done in the Philippines, I was reminded of how very much the Philippines Islands are like the state of Pennsylvania. It was said of Pennsylvania that her two greatest men were Albert Norton of Switzerland and Benjamin Franklin of Boston. (Laughter.) And it occurred to me that the two greatest men we had in the Philippines were Governor Taft and Judge Johnson. (Applause.) It reminded me of the fact that Judge Johnson came from Ohio, and that reminded me of the time in my life when I was foolish enough to hold office. At that time Mr. Hayes was President of the United States, and John Sherman was Secretary of the Treasury; William T. Sherman was general of the army; Morris S. Waite of Toledo was chief justice of the Supreme Court of the United States, and it fell to my lot, as prosecuting attorney of Bay county, to prosecute a sailor, a captain of a vessel, for a vicious assault upon one of his men. The principal argument of the attorney for the defense was that this man who made the complaint was an honest man, that he came from some place down in Ohio, and nobody knew anything about him, and that the defendant was a very worthy citizen of Bay City. I replied to that argument by the showing that the President of the United States was from Ohio, and the Chief Justice of the United States was from Ohio, and the Secretary of the Treasury was from Ohio, and the general of the army was from Ohio, and, last, though not least, upon that particular occasion, the Prosecuting Attorney of Bay county came from Ohio. Now, gentlemen, our cordial friend, Mr. Russell, has told to you in eloquent words one thought which I think should be uppermost in all our minds to-night, and that is, what a privilege it is to belong to the great profession of the law. What a noble aim it is to excel in that profession! How many opportunities it affords for the protection of innocence, for the defense of right, for the giving of good counsel in important business enterprises, and in discharging our duties faithfully towards our clients and our community. And my friend Smith has shown you how much of good we have given to the service of our country. For at no time in the history of this country has there been a period when the lawyer, the lawyer who goes into politics—and politics is the science of government, and the highest pursuit, in my judgment, rightly pursued, that any man can take up. And among the great men of the country—they have been recruited from the ranks of the lawyers. And I trust that condition will continue always, for as long as you can find men forgetful enough of their personal interests to give their time to the public service, and I know of no class of men who do give their time with less direct compensation, except it be for the knowledge and satisfaction in the doing of work well and faithfully, than the lawyers that have gone to Congress. Smith and I know that is true. This of itself is a pleasant reflection for us. And another thing is that we know there is nothing

which draws men together so closely as the meeting in fair and open and manly contest, as we do in the court. And on these social occasions when we draw together, when we exchange confidences, exchange experiences, grow to know each other better that all our contests are in the open, and that there is no place in the line of a successful practice for the mean man, or an underhand man in the practice of law. He must be open and fair and manly and honest, and when he is that he succeeds. Not, perhaps, in making a large amount of money, and, after all, the making of money alone is not a very high and ennobling pursuit. It may be that some man that makes some patent, or some tooth paste, or something of that sort, makes a large amount of money; but the knowledge that men that can successfully practice the law are the distinguished men of the country, men who expound to us their views of the law, and all those things which go to make the profession of the law what it is, and what it ought to be, and what I trust it ever shall be—an aristocracy of intellect, whose power is always used for good. (Applause.)

Toastmaster Brennan: We have with us to-night a young man who, by the force of his intellect, his ability, his honesty, and his courage, has won an honorable place for himself amongst the judiciary of this State; a man who is loved by his former members of the bar and by his associates, and I know that you will all be pleased to hear a few words from Judge Murphy. (Applause.)

JUDGE MURPHY.

Mr. Toastmaster and Gentlemen—I am sure that the younger members of the profession appreciate and realize now more deeply than ever the inheritance which is theirs from the distinguished members of this profession whose words of wisdom have been given us during the past two days and to-night. If there need be any incentive to high endeavor it is found in their example, as well as in their precept. We of this generation of the law know that even in our own day this profession has worked great wonders. We can ourselves hark back to that time when our profession, through the Geneva Commission, gave to the world the arbitration of reason instead of international war. We can go back ourselves to the time when our profession gave to this country, in the Hayes-Tilden Commission, again the arbitration of reason instead of civil strife. We realize that upon all sides the public looks to our profession for the solution of the problems that now press upon us. The regulation of corporate interests and rights, the maintenance of the integrity of local self-government—these all must find their ultimate solution through this profession. If we are true to the inspiration of the past and to the example of our elders in the law, may we not hope that even if it be not ours to delve down to the depths and find the principles that will give the truth of these problems, that at least, by honorable conduct and the maintenance of lofty standards in this profession it shall, at least, not be the worse for us for having been admitted to membership within it. And I think I speak the earnest purpose of the younger members of the bar when I say that they realize the duty, the incentive which is theirs, furnished us through the examples of the older members of the bar living in our own day. This is the great privilege which comes from these gatherings, that from the older members, from not only, as I say, their precept, but their practice, that we may gain new courage and new faith towards eminence. After all, what nobler aim can there be than to reach eminence in this profession?

Toastmaster Brennan: You will notice that in the very serious parts of

Judge Thompson's toast to-night he spoke about walking through the halls of Justice of the new county building, and his transition of mind from the sublime to what he considered, in passing by a court room, that he was approaching Pandemonium. He was not approaching Pandemonium, he was simply passing by Judge Fraser's court room, and at that time two of the leading lawyers of the bar were trying a case, and, as is usual, both were trying to talk at once. One of them was our old friend, Mr. Pound, and the other Elliot G. Stevenson, hence he might well have made the mistake—there is no theologian present. I won't go very far, but I believe the church is divided into two classes, the church militant and the church triumphant. Well, the lawyers are divided into two classes, the lawyers militant, who are always in a fight, and the triumphant fellows who win the suit. And I think I can have no greater example of two in one among the members of our bar, who, I think, above all others worships the law as his mistress, and can rarely be decoyed to even such a gathering as this —he is so wedded to it—and that is our earnest, honest, good citizen and good lawyer, and president of our Association, Mr. James H. Pound. (Applause.)

JAMES H. POUND.

Mr. Toastmaster and brethren of the bar, both of the State of Michigan and of our beloved city—It is with a very great deal of pleasure that I participate, in some measure, in this celebration. I think what the city of Detroit has done to its bar, to this Association, that was conjured up a number of years ago and had its first meeting, is one of the things that you will all agree with me would be better if it only occurred oftener. The bar of the city of Detroit is a thing that every member of the bar of Detroit, so far as I am aware, has always been proud of. We are glad to have with us the members of the bar throughout the state, and we are glad that under the inclement weather we have been inflicted with for the last two days, such a strong representation of the leading members of the bar throughout the State have honored us with their presence. They do us good, and we hope that we do them good in mingling with them and showing them that the bar of the city of Detroit is animated by the same friendly feelings that they themselves are. But the bar, my brethren, of the city of Detroit, of which I have now been a member not quite as long as the toastmaster, but long enough to feel quite venerable, and I think every member can feel a great pride in being a member of. Forty years ago it was the strongest bar west of Buffalo, and possibly the city of New York itself. The city of Detroit has given to the administration of the law many able men who have been referred to in some part during these proceedings, and I desire to call attention to a thing that impressed itself upon me when but a mere lad, that upon all public occasions the old bar, headed by the Lothrops, and the Walkers, and the Chipmans, and the Larneds, and the Romeyns, leading every active public movement that was being determined as year rolled after year in those bygone days. We younger members of the bar at that time had a veneration and a reverence for those grand men, among whom we have the good fortune to retain one that has been young for nearly forty years, the gentleman who at my right, demonstrated his right to be classed as a first-class lawyer as far back as the 7 Mich. in the case of the People vs. Tyler. I hope, and I know it is your hope, that Alfred Russell may long live to be the Nestor of the bar that we love so well. (Applause.) With such inspiring examples of the men that have gone before us, how could it be said but otherwise that we would have a firm, honest, conscientious, hard-working bar, and that, I think it will be conceded, the city of Detroit has ever possessed. And our hope—the hope

of those who have in some slight measure the charge of the affairs temporarily of the Association—is that we may continue in this same earnest striving in the performance of our duty as our predecessors in the practice of the law in performing their duty long before we came upon the stage ourselves. And it is our hope that we may not be succeeded by those whose highest aim is the mere accumulation of dollars, but whose highest aim will be the strongest contest, the biggest battle, the most inspiring effort in the fight for human liberty in Michigan. We want this State to take no backward step, and while we are animated with the spirt of Calhoun, with the members of the Detroit bar as manifested and shown in times gone by, I think I am safe in prophesying that we will hold our own, we will do our duty, and we will ask our friends from the State to come here and visit us as often as they can, assuring them of the right hand of fellowship and the best treatment that it is possible for man to give to man. (Applause.)

Toastmaster Brennan: I know you would like to hear from that able lawyer and jurist who has honored us here with his presence, and who has come from the Upper Peninsula, a distance of nearly 700 miles, to be present at our deliberations, and I have great pleasure in introducing to you Judge Brown of Menominee. (Applause.)

JUDGE BROWN.

Mr. Toastmaster and Gentlemen—It is hardly fair to call upon me without giving me the slightest intimation that I was expected to be heard. I feel as if with some slight degree of preparation the inspiring influence of your presence might lead me to say something worthy of your attention. But this call is utterly unexpected, gentlemen of the bar. My recollection of this bar goes back some forty years. One of the earliest acquaintances that I made in the city of Detroit was Mr. Lothrop, and after him the distinguished gentleman who sits at my right. I do not think that I have met during the last twenty years many members of the bar of this city. One thought occurs to me tonight, as developed during the discussion here, and that is the influence of the bar in the halls of legislation. Godkin, who edited The Nation, called attention to that some forty years ago. He spoke of the intellectual disinterestedness of the bar. Now, we can hardly realize what that means. The merchant who is accustomed to trade, goes into the halls of legislation, and he is disposed from the very habits of his life to weigh and measure the advantages which he, and his class, derive or may derive from the passing measures of legislation. There is no man who enters Congress or the legislature of his state who is so absolutely unselfish as the lawyer. It is the habit of his life. He is a partisan, in a sense, when he is arguing a case before a court or a jury, but in his general intellectual make-up, and in his survey of the world, and of his relation to it he is absolutely disinterested; at least, more so than any other class of the community. Take, for example, the spirit of religious toleration, where can you find in any walk of life the same degree of toleration and freedom of opinion than you find in the ranks of the bar. We are confronted today with the greatest variety of social and political economies. Forty years ago, when this gentleman who sits at my right entered upon the practice of the law, or fifty years ago—forty years ago when I knew him—the bar were not troubled very much with new questions. Now, what is expected of us today? We are expected to survey the history of the whole world with each recurring morn. We are expected to make up our minds upon an infinitude of questions, political and social, and the thought came to my mind as I sat here to-

night and looked over the distinguished bar of this state, who bear their characters in their faces, that the influence of the bar was never greater than it is today. Now, the bar is practical. We pick up a newspaper, and we read the theorizings of men, of professors in the universities, and newspaper writers—men who seek to instruct the public. The bar, on the contrary, have as their sheet anchor the fundamental principles which are their practice and their influence never was greater than it is at this moment. And why? Because the most precious possession of the bar is character. Mere talent goes for little. You know that. However great a man's abilities may be, unless he is a good man he cannot retain his hold upon the community. The bar are eminently good men, men who have the interest of the community at heart, men who desire to do just as much good and just as much evil as possible, men especially noted for their civic virtue. There is not an interest in the community which is not sustained and helped and uplifted by the members of the bar. So I say that in the future the interests of this country will be conserved largely by the bar of the country. De Tocqueville when he was here spoke of the bar as the aristocracy of the United States. He meant by it that it was the conservative order, the conserving force of the community in which they exercised their profession. Now, gentlemen, I thank you for your attention, and only regret that I have not had the time to meditate on something worthy of your attention. (Applause.)

Toastmaster Brennan: Gentlemen, we have with us tonight an able lawyer from the capital of this state, who graced the Supreme Bench for a short time with his presence, and it has been our loss and Michigan's loss that his presence there was not longer, because the work he did during his incumbency was very much appreciated by the lawyers of this state. I know you will all like to hear from Judge Cahill, of Lansing. (Applause.)

JUDGE CAHILL.

Mr. Toastmaster and Gentlemen—When our toastmaster spoke about my having graced the bench of the Supreme Court I was reminded of a circumstance which took place very soon after I left the bench. I was trying a case that a friend of mine, who was himself a distinguished lawyer from another city, and in criticizing some statement that I had made as law, he said, "I am surprised to hear such a statement as that coming from a man who has been upon the Supreme Bench." I did not at the time appreciate it, but I have in my sober after-thoughts appreciated it many times. Perhaps it is fair to call upon a lawyer to make a speech upon almost any occasion without any notice at all, but I am a good deal worse off than Judge Brown. I know from very long acquaintance with him that he is like the Methodist minister in Missouri that our friend Judge Thompson tells us of: he is always ready, and always has something to say that will interest and instruct. We have in our county not as able a bar, perhaps, as you have in yours, but still we have some very good lawyers in Ingham county, and we have some very interesting characters besides in addition to their legal ability, and in the thirty years that I have been in practice there I have necessarily and naturally had on many occasions to test the metal of those different members of the bar. I remember on one occasion I was trying a mule case which might very well have originated in Missouri. A client of mine having a very fine pair of mules, had been induced to trade that pair of mules for a mortgage upon a farm in Eaton county. The mortgage turned out to be based upon a tax title, and a tax title which had been paid, so that the mortgage was not very valuable. After having made the trade the man came to see me about it,

and I told him we would replevin the mules, and so we did. Now, it happened that there were only three persons present when this trade was made, the plaintiff and the defendant, and a man who was in the plaintiff's employ. The man who had been in the plaintiff's employ had moved off west somewhere, I think into Kansas, and so we did not find—or we found it very difficult to get his testimony—and I finally decided that we would not need his testimony, that I would be able to satisfy the jury that my client was a reasonably intelligent farmer, and would not trade a good pair of mules for a mortgage of that kind. So I told him we would not take the testimony of the witness out there, but I would try to get along with his testimony alone. Well, we made a pretty strong case, but when we got through and the other counsel had gotten through with his proof and he came to argue the case he commented quite strongly upon the fact that we had not taken the testimony of this third party who appeared to be present at that trial, and he made reference to the very well-known rule that lawyers sometimes make use of, that the reason why we did not call that witness was because we did not dare to, and that if he had been sworn he would not have substantiated our case, but he would have substantiated the story which the defendant told, and turning to me and shaking his hand, as Prof. Thompson said this morning, his countenance was itself a breach of the peace, "I will make the gentleman's knees tremble like Belshazzar at the feast, when he saw the handwriting upon the wall: Memene tickel Munchausen." (Mene tekel upharsin.) (Laughter.) I am happy to state, however, that the jury did not appreciate that burst of eloquence, and gave the mules back to the farmer.

Now, gentlemen, I am sure that there is no one who has attended this bar meeting who has enjoyed it more than I. I proposed to some of the members of the Detroit bar that all the meetings of the Michigan Bar Association be held in Detroit. It is a little trouble for us to come down here to attend, but when we get here we receive such entertainment as fully compensates us for all the expense and all the trouble and all the time we have spent. There is no other place in Michigan where there is such variety of entertainment, and where there are so many glad hands to be stretched out to us as here in Detroit. I do not believe that your hearts are any warmer, but there are more of them. And so I want to say to you in closing that I have enjoyed every moment of the time I have been here, and that if the committee whose duty it is to fix the place for the meetings should choose to select this as the next place, you may always depend upon me as a permanent guest. (Applause.)

Toastmaster Brennan: Now, gentlemen, before closing, I know you would like to hear from our able, conscientious and patient retiring president, who has so ably conducted the exercises of the meeting of the State Bar Association in Detroit this year, Mr. Sloman.

MR. ADOLPH SLOMAN.

Mr. Toastmaster and Gentlemen of the Bar—After hearing the kind words of our toastmaster regarding the meeting of the State Bar Association, I feel very much like the woman who was successful in her divorce suit and when asked by a companion as to whether or not she was over-awed when the judge rendered his decision, she said, "No; I was completely un-manned." (Laughter.) Now, gentlemen, I feel that I am entitled to very little credit for the success of the meeting that we have had here during the past two days. The credit really belongs to the officers of the State Bar Association and the rank and file who when called upon loyally came to my

support, and conspicuous among those who were ready to do work were the young men of the bar, and many of the young men of the Detroit bar. And I want to say to you young men that the secret of the success of this meeting lay in the fact that I made all the lawyers who are members of the State Bar realize that I wanted them, that I needed them in the work, and that without their aid I was absolutely helpless to accomplish any good whatever. I want to say to you that if you but put your shoulder to the wheel, and I speak especially to the young men of the bar of the state,—numerically you are strong,—there is no measure that you would undertake in any one of the associations, be it county or city or state, but what you can carry the measure. Not only that, among your ranks you have some of the brightest men we have at the bar of this state, young men who in time will make their mark, young men who will be the future Romeyns and the Lothrops and those who have gone before. You have a grave responsibility resting upon your shoulders, and if you are loyal to your profession, if you are loyal to your clients, if you are loyal to the high ideals which are represented by the profession with which you are affiliated, success is bound to come to you. Gentlemen, I feel like saying what the Irish barrister said when he realized that he had not been able to convince the court. He said, "If your honor please, if the points I have made are not well taken, I have others equally conclusive." (Laughter.) Gentlemen, I thank you for your attention.

Toastmaster: Now, gentlemen, the meeting is open to express yourselves. The hour is getting rather late. What is your pleasure?

Motion to adjourn, put and carried.